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LOK SABHA

The following report of the Select Committee on the Bill to provide for the nationalisation of life insurance business in India by transferring all such business to a Corporation established for the purpose and to provide for the regulation and control of the business of the Corporation and for matters connected therewith or incidental thereto, was presented to Lok Sabha on the 30th April, 1956:—

Composition of the Select Committee

1. Shri Balvantray Gopaljee Mehta—*Chairman*,
2. Shri Syamnandan Sahaya
3. Shri Anirudha Sinha
4. Shri S. K. Patil
5. Shri Shriman Narayan
6. Shri C. P. Matthen
7. Shri Feroze Gandhi
8. Shri Radhelal Vyas
9. Shri Raichand Bhai N. Shah
10. Shri Upendra Nath Barman
11. Shri Bimalaprosad Chaliha
12. Shri S. R. Telkikar
13. Shri R. Venkataraman
14. Shri Tek Chand
15. Shri T. N. Singh
16. Shri Tekur Subrahmanyam

17. Pandit Krishna Chandra Sharma
18. Shri R. R. Morarka
19. Shri G. L. Bansal
20. Shri M. D. Joshi
21. Shrimati Sushama Sen
22. Shri S. R. Rane
23. Shri V. B. Gandhi
24. Shri B. R. Bhagat
25. Shri Sadhan Chandra Gupta
26. Shri K. Ananda Nambiar
27. Shri Tushar Chatterjea
28. Shri K. M. Vallatharas
29. Shri M. S. Gurupadaswamy
30. Shri K. S. Raghavachari
31. Shri Tulsidas Kilachand
32. Shri U. M. Trivedi
33. Shri G. D. Somani
34. Shri R. Velayudhan
35. Shri C. D. Deshmukh

DRAFTSMEN

1. Shri G. R. Rajagopaul, *Additional Secretary and Chief Draftsman, Ministry of Law.*
2. Shri S. K. Hiranandani, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*
Shri P. K. Patnaik, *Under Secretary.*

Report of the Select Committee

I, the Chairman of the Select Committee to which the *Bill to provide for the nationalisation of life insurance business in India by transferring all such business to a Corporation established for the purpose and to provide for the regulation and control of the business of the Corporation and for matters connected therewith or incidental thereto was referred, having been authorised to submit the report on their behalf, present their report with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on 17th February, 1956. The motion for reference of the Bill to a Select Committee was moved by Shri C. D. Deshmukh on 19th March, discussed in the House on 19th and 20th March and adopted on 20th March, 1956. (Appendix I).

3. The Committee held 18 sittings in all.

4. The first sitting of the Committee was held on 22nd March, 1956 to draw up a programme of work.

5. At the 2nd, 3rd, 4th and 5th sittings, the Committee heard the evidence tendered by the associations specified in Appendix II.

The Committee have decided to lay the evidence tendered before them on the Table of the House *in extenso*.

6. The Committee considered the Bill clause by clause at the subsequent sittings held on 9th and 10th April as well as from 16th to 26th April, 1956.

7. The report of the Committee was to be presented by 16th April, 1956. The Committee were, however, granted extension of time on 16th April, 1956 upto 30th of April, 1956.

8. The Committee considered and adopted the Report on 30th April, 1956.

9. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

*Published in Part II—Section 2 of the *Gazette of India, Extraordinary* dated the 17th February, 1956.

10. *Clause 6*: In sub-clause (1), the words "of the community" have been added in order to make the intention clear.

In sub-clause 2(d), the words "or persons" have been inserted to make it clear that life insurance business carried on outside India may be transferred to one or more than one person.

In sub-clause 2(h), the words "life insurance" have been omitted as the Corporation may have to carry on business other than life insurance business where such business was carried on by a subsidiary of any insurer.

11. *Clause 7*: The Committee feel that since Government will now stand guarantee, there is no longer any necessity for any such trust as is referred to in section 27(6) of the Insurance Act.

Sub-clause (3) has therefore been inserted.

12. *Clause 8 (New clause)*: The Committee feel that where an insurer has established a provident fund, superannuation fund or any other fund for the benefit of its employees and constituted a trust, the moneys standing to the credit of any such fund in respect of the employees who have become the employees of the Corporation should vest in the Corporation and the Corporation may constitute one or more trusts with similar objects in respect of such transferred funds.

This clause has been inserted accordingly.

13. *Clause 9 (Original clause 8)*: Omission of sub-clause (3) is consequential upon the insertion of new clause 8.

14. *Clause 10 (Original clause 9)*: The amendment made in sub-clause (f) is consequential upon the insertion of new clause 8.

15. *Clause 11 (Original clause 10)*: In the proviso to sub-clause (1), the words "to any employee of the Government or" have been deleted as in the opinion of the Committee the provisions of this clause should apply to Government servants also.

In sub-clause (2) an Explanation has been added as the Committee feel that compensation payable to a former employee of an insurer under sub-clause (2) should not affect any benefit he may be entitled to receive under the contract of his service with the insurer.

16. *Clause 12 (New clause)*: The Committee feel that existing employees of Chief Agents of insurers should be absorbed and their services transferred to the Corporation in certain cases.

This clause has been inserted accordingly.

17. *Clause 14 (Original clause 12)*: The amendment made in this clause is intended to exclude contracts of insurers entered into after the 19th January, 1956, when the business of the insurers was taken over by Custodians.

In respect of the proviso to this clause, the Committee recommend that in order to ensure security to the policy-holders the Government should, while approving any scheme envisaged in this clause, be liberally disposed to see that losses to the policy-holders are minimised as far as possible.

18. *Clause 15 (Original clause 13)*: The Committee feel that the period of two years provided in this clause should be increased to five years.

In view of the provisions contained in clause 41 (original clause 32) the Committee feel that not only the Corporation but also any other person interested should have the right to apply for relief to the Tribunal under this clause.

The clause has been amended accordingly.

19. *Clause 17 (Original clause 15)*: The Committee feel that the Central Government should be empowered to constitute more Tribunals than one when such a necessity arises.

The clause has therefore been amended accordingly.

20. *Clause 18 (Original clause 16)*: The clause has been amended to provide for a zonal office of the Corporation in Kanpur also.

21. *Clause 19 (Original clause 17)*: The Committee feel that the constitution of an Investment Committee to advise the Corporation in matters relating to the investment of its funds is very much necessary and it should find specific mention in this clause.

The clause has therefore been recast accordingly.

The Committee have noted the assurance given by the Minister of Revenue and Civil Expenditure that an Investment Committee will be appointed.

22. *Clause 20 (New clause)*: This clause reproduces sub-clause (2) of original clause 17 with a modification making provision for the appointment of more than one Managing Director, if necessary.

23. *Clause 21 (Original clause 18)*: The amendment is clarificatory.

24. *Clause 22 (Original clause 19)*: The Committee consider that in order to promote good relations between the Corporation and its

employees, there should be an advisory committee called the Employees and Agents Relations Committee in each zone.

Sub-clause (3) has been inserted accordingly.

25. *Clause 23 (Original clause 20)*: The amendments made are of a drafting nature.

26. *Clause 25 (Original clause 22)*: In sub-clause (1), for the word "affairs" the word "accounts" has been substituted in order to make the meaning clear.

27. *Clause 27 (New clause)*: This new clause provides that the Corporation should at the end of each financial year submit to the Government a report on its activities.

28. *Clause 29 (New clause)*: The Committee feel that the reports of the auditors and actuaries and the annual reports on the activities of the Corporation should be laid by Government before both the Houses of Parliament.

This clause has been inserted accordingly.

29. *Clause 31 (New clause)*: The Committee feel that there should not be any objection to a company registered in India carrying on life insurance business in respect of persons residing outside India.

This clause has therefore been inserted.

30. *Clause 32 (New clause)*: This clause empowers the Corporation to have facsimiles of the official seal for use in the zonal, divisional and other offices under the Corporation.

31. *Clause 34 (New clause)*: The clause relates to surplus shares vested in the Administrator General which have not been disposed of by him. The Committee feel that such shares should revest in the persons entitled thereto on payment by them of the expenditure incurred in relation to those shares.

32. *Clause 35 (Original clause 27)*: The clause has been re-cast from the drafting point of view and enables the Central Government to make an order under the clause before the appointed day, that is before the date when the assets and liabilities of the insurers are to vest in the Corporation.

33. *Clause 36 (New clause)*: This clause provides for the cessation of contracts subsisting between an insurer and his Chief or Special Agent and between Chief Agent and Special Agent, as from the appointed day, on payment of due compensation.

34. *Clause 37 (Original clause 28)*: The Committee feel that the Central Government should guarantee payment by cash. The words "by cash" have therefore been inserted.

35. *Clause 40 (Original clause 31)*: The Committee feel that the period of imprisonment of six months provided under the clause will not meet the ends of justice and should be increased to one year.

The clause has therefore been amended accordingly.

36. *Clause 42 (Original clause 33)*: The clause has been re-cast to describe precisely the civil court to which the application for enforcement of a decision of the Tribunal may be made.

37. *Clause 43 (Original clause 34)*: The Committee are of opinion that it will not be proper to give unrestricted powers to Government in the matter of application of the provision of the Insurance Act to the Corporation.

The Committee feel that the sections of the Insurance Act that should automatically apply to the Corporation and the sections that may be made applicable by Government should be specified in the Bill.

The Committee also feel that all notifications issued by the Central Government under this clause should be laid before both Houses of Parliament after they are issued.

The clause has therefore been amended accordingly.

38. *Clause 44 (Original clause 35)*: The Committee feel that the life insurance business of a composite insurer which is being managed by an Administrator appointed under section 52A of the Insurance Act should not vest in the Corporation on the appointed day.

The Committee also feel that the exemption granted under this clause should apply to schemes of compulsory insurance that Government may frame in future as well.

The clause has therefore been amended accordingly.

39. *Clause 45 (New clause)*: The Committee feel that in respect of the composite insurers whose management has vested with the Administrator, steps should be taken as soon as possible to transfer the assets and liabilities appertaining to the controlled business of such insurers to the Corporation and vest the management of other business to the persons concerned.

This new clause makes the necessary provision.

40. *Clause 48 (Original clause 38)*: The Committee consider that all rules made under this Act should be laid before both Houses of Parliament for a period of not less than thirty days and shall be subject to such modification as Parliament may make.

Sub-clause (3) has, therefore, been amended accordingly.

41. *First Schedule*: In regard to this Schedule the Committee consider that—

- (i) an insurer having a share capital who has allocated the whole of the surplus to the policy-holders should also come under Part A;
- (ii) an allowance should be made for the increase in the growth in the business in force subsequent to the period comprised in the relevant inter-valuation periods. It was felt that this could conveniently be done on an approximate basis, the average business in force during the period 1950—55 inclusive being the basis on which the compensation is paid; and
- (iii) the minimum in Explanation 2 should be increased slightly.

The Schedule has therefore been amended accordingly.

The amendments made in Parts B and C of the Schedule are clarificatory.

42. *Second Schedule*: Minor and clarificatory changes have been made in this Schedule.

43. *Third Schedule (New)*: This Schedule lays down the scale of compensation payable to chief agents and special agents on the termination of their contracts with the insurer on the appointed day.

44. The Select Committee recommend that the Bill as amended be passed.

NEW DELHI;
The 30th April, 1956.

BALVANTRAY G. MEHTA,
Chairman.
Select Committee.

Minutes of Dissent

I

One of the effective ways to safeguard the interest of the policy-holders and also of the Government is to exercise control over the expenses of management of the Corporation. The Bill, as it emerges out from the Select Committee, has no provision for such control. Section 40B of the Insurance Act, 1938, which provides for limitation of expenses, has also not been made applicable to the Corporation. We strongly feel that in order to safeguard the interest of the policy-holders and of the Government, Section 40B of the Insurance Act, 1938 should be incorporated under clause 43(1) of the present Bill which will make it obligatory to manage the affairs of the Corporation within a certain limit of expenditure. Incorporation of Section 40B of the Insurance Act, 1938 will enable the Parliament also to exercise such a control. If for any reason Section 40B of the Insurance Act, 1938 could not be incorporated under Clause 43(1), a suitable specific provision for limitation of expenses of management of the Corporation should find a place in the Bill.

NEW DELHI;

BIMALA PROSAD CHALIHA

The 30th April, 1956

M. D. JOSHI.

II

I have read the Report of the Select Committee and I am in full agreement with the same, except on one point which I consider is a major issue. The policy of nationalisation has my full approval. But the set up proposed, I am afraid, will retard the progress of the Industry and is likely to make it static. I am referring to One Corporation instead of six or seven autonomous Corporations. The life insurance business has developed very much in the course of the last three or four years and if it is to continue in the same way and reach the target of 8,000 crores as contemplated by the Finance Minister, it is absolutely necessary that some element of competition must be brought into it.

This nationalisation of life insurance is being tried in other countries, but no country has taken over the whole life insurance business as a monopoly of the Government, except perhaps Costa Rica, which is a small country with a population of 800,000 people.

Among other countries that have taken to nationalisation of life insurance, I would like to mention France. They have also nationalised Banking in the same way. But in both these, even though they have taken over the important Insurance Companies and Banks, they have left several companies in the Private Sector also to continue working. Apparently, the main object was to retain the element of competition which is so essential for the development of any industry. I hold—and I hold very strongly—that in the interest of the development of the Public Sector, whether it is nationalisation of Insurance Companies, Banks or Transport or anything else, it is absolutely necessary to retain a small sector in the Private Sector also in the best interests of the Public Sector.

Hence I propose that instead of one Corporation, we must have at least seven or eight autonomous Corporations, all owned by the Government, so that the element of competition may be retained. If some constructive and objective thinking is made, I am sure that this aspect—I mean the importance of the element of competition—will be appreciated by the House. In this connection, I would like to point out that all the practical businessmen who had occasion to appear before the Select Committee, have one and all stressed the importance of retaining the element of competition in the new set-up.

I will go a step further and suggest the retention of the five or six most important companies who among them share more than half the Insurance business of India, and to regroup these units in such a way that out of the 152 units now taken over, 8 or 10 bigger units should emerge. This could be done partly by the amalgamation of a number of smaller units, and regional considerations also may play some part in bringing about such grouping of these units. I suggest the Government taking over shares of all these companies and working all these 8 or 10 units under such general policy regulations as the Government may prescribe. These units will then be allowed to work as autonomous units. The great advantage in this suggestion is that the organisation of these 8 or 10 units will be able to work more efficiently than a new organisation to be built up by One Corporation, to take over the tremendous volume of work, which, on account of the 152 units working in different ways, will be found by the Government as an impossible task.

But my suggestion was to constitute six of seven autonomous Corporations with Headquarters in important regions of the Union of India. There may be standard uniform premium rates for all the Corporations. But a considerable amount of competition can be brought to operate through the methods of servicing and every unit will do in the way in which each Corporation services its business. This servicing is the most important problem. There are about 5

million policy-holders to-day and to issue premia notices, to collect premia, to take notice of lapses, to take steps to revive the lapsed Policies, and to pay claims promptly, is a big administrative job.

These autonomous Corporations must have independent actuarial valuation and absolute freedom in the day-to-day working, and if the valuation warrants, these Corporations must have the liberty to declare independent scales of bonuses. Of course, each of these Corporations will have the freedom to work in any part of India and thereby encourage the spirit of healthy competition in this Industry. I have not the least objection to the Government controlling the investments of all these Corporations.

No country in the world has progressed so much in the matter of production as U.S.A., even though they still believe in *laissez-faire* Capitalism, in which I have no faith. They have developed the industries into various big Corporations—whether in Automobiles or in Textiles or in Soap manufacture, etc. etc. But, one feature which I want to stress in connection with the U.S. Corporations is that they encourage competition of similar products even in the same Corporation. I know of a big Soap Manufacturing Corporation, where two of their Washing Soaps manufactured in two factories are allowed cut-throat competition, even though the loss incurred by one factory may be the loss of the Corporation. They have found that by this encouragement of the spirit of competition, the total business is increased at comparatively less cost.

With my business background, at the same time without any vested interests in any industry whatsoever, I am viewing the whole Nationalisation with the object of making a greater success than what is achieved by the Private Sector. I strongly recommend to the House the revision of this monopolistic One Corporation provision.

NEW DELHI;

C. P. MATTHEN

The 30th April, 1956.

III

We have read the report of the Select Committee from which we beg to differ in certain respects.

Our differences with the majority view involve principles relating to the protection of policy-holders' interests, the accountability of public enterprises and the basis of paying compensation due to shareholders, which we should like to elucidate before giving our views on the relevant clauses.

The Insurance Act, 1938, tries to secure the interest of policy-holders by laying down various provisions such as, the election of policy-holders' directors on the board; limits on the investment of controlled funds in any one company, and other restrictions on investments; limits on expenses of management; licensing of agents; and the maintenance of proper accounts and their auditing. The Life Insurance Corporation Bill, 1956, as adopted by the majority of the Select Committee, does not provide for some of these important safeguards. No provision has been made for the election of policy-holders' representatives as members of the Corporation or even as members of the Zonal Boards, and for maintaining the expenses of management within prescribed limits. There are no provisions laid down in the Bill, as adopted by the majority, to regulate the investment of controlled funds in the interest of policy-holders, although there is a provision empowering the Government to frame rules for this purpose. We are in favour of incorporating provisions in the Bill for the appointment of policy-holders' representatives, at least on the Zonal Boards; incorporating restrictions on investment in the shares of any individual company, and other restrictions specified in Sections 27 and 27A of the Insurance Act, 1938; and provisions regarding the expense ratio. Moreover, we are of the view that it would be in the interest of policy-holders to prohibit the Corporation to risk its funds in other businesses. In this connection we would recommend that the Corporation should hand over the three general insurance companies to those life offices which were running them as subsidiaries, provided they are willing to take them over, or to transfer them to other suitable parties.

The second principle involved is that of public accountability of State undertakings. We feel that with nationalisation the public accountability of such undertakings should increase, not decrease. The Bill as adopted by the majority provides for the audit of accounts by auditors appointed by the Corporation with the approval of the Government. This provision, we think, is bad in principle, inasmuch as it does not provide for an overriding audit by the Comptroller and Auditor-General. The entire capital of the Corporation is to be provided from public funds, and the Central Government is to guarantee all its policies and bonuses. It is, therefore, incumbent on the Parliament, as the custodian of public funds, to secure the public accountability of such funds, which can be done only by providing for the audit of the Corporation by the comptroller and Auditor-General, the only authority empowered to carry out audits on behalf of the Parliament. Even in a private company, the share-holders, and not the directors, appoint the auditors. Section 619 of the Companies Act, 1956 provides for the additional audit of Government companies by the Comptroller and Auditor-General. Since the Companies Act

is not applicable to the Corporation, it is absolutely necessary to provide for audit by the Auditor-General of India. His report could be discussed by the Parliament. That is, in our opinion, the minimum quantum of public accountability to which every State undertaking should be subjected.

As regards the basis of compensation, we differ from the majority view in two respects. Firstly, insurance business is a steadily growing business, the earnings from which increase steadily from year to year, instead of fluctuating from year to year as in the case of trading business, and the time that ought to be taken into consideration for estimating its earning capacity should be a convenient date, as near as possible to the date of taking over, and not an average of a number of years. The majority have therefore erred in taking the average of the last two valuation surpluses adjusted in proportion to the average business in force for the years 1950 to 1955, as this results in estimating earning capacity of the business not at the end of 1955, but at the end of 1952 or an earlier year. This back-dating obviously results in undercompensation, as the earning capacity of life insurance businesses would be always more in subsequent years than in preceding years. Secondly, the majority has provided that in the case of companies that had appropriated for the benefit of their share-holders more than 5 per cent. of their valuation surpluses, only 5 per cent. should be taken into account for the purpose of calculating compensation. This is unfair in our view inasmuch as the great majority of the companies had been appropriating $7\frac{1}{2}$ per cent. as laid down in the Insurance Act, and the values of their shares had got adjusted on the basis of such division of the valuation surplus between policy-holders and share-holders. The acceptance of the majority view would, therefore, result in loss to tens of thousand of share-holders of insurance companies, a large proportion of whom belong to the middle class. In our view, the percentage to be taken in the case of any such company should be that at which it fixed the share-holders' portion of the valuation surplus in its last valuation. The basis we have recommended would involve the least disturbance in share values as well as in the arrangements between the share-holders and the policy-holders existing at the time when the business was acquired by the Corporation.

We append below detailed comments on those provisions of the Bills on which we have differences with the majority of the Committee.

Clause 14 (Original Clause 12): This clause empowers the Corporation to reduce the values of existing policies of any insurer, having regard to its financial condition on the date on which the Corporation is established. It must be noted, however, that the

policy-holders of financially unsound units likely to suffer loss by the reduction in the value of their policies, will have no say whatsoever in the determination of such claims, and will not be in a position to contest their claims. It would be desirable to afford some relief to these unfortunate policy-holders, a part of whose savings would vanish for no fault of their own. We recommend that the assets of the companies affected should be revalued, their policies re-evaluated on that basis, and their funds treated as closed funds. To reduce the loss of the policy-holders, mortality rates should be taken on a more favourable basis than the 1925-35 Oriental ultimate basis; the interest yield should be taken at a liberal rate, based on actual yields and not on a hypothetically determined conservative basis; and the expense ratio allowed should be not more than 10 per cent, as such businesses can be managed very economically as closed funds.

Clause 22 (Original Clause 19): This clause provides for the formation by the Corporation of Zonal Boards to advise the Zonal Managers. We are in favour of the election of policy-holders' representatives as members of the Corporation on the same basis as the life insurance companies were required to elect policy-holders' directors under the Insurance Act, 1938, and also of the appointment of policy-holders' representatives on Zonal Boards. The Government might plead that it would be difficult to hold an election for the appointment of policy-holders' representatives as members of the Corporation, but they cannot argue that the appointment of policy-holders' representatives on the Zonal Boards would present any special difficulties. It might be contended that the members of the Corporation and of the Zonal Boards may all be relied upon to safeguard policy-holders' interests, but it must be appreciated that such members would only hold a balance between policy-holders' interests and the interests of other parties, such as the members of the Staff and Government and other borrowers, and would not advocate exclusively the cause of the policy-holders. It would be re-assuring for the policy-holders to have persons charged with the responsibility of exclusively looking after their interests. That would also enhance the confidence of policy-holders, and render life insurance policies more attractive. We, therefore, strongly recommend the appointment of policy-holders' representatives on Zonal Boards, and, if feasible, also as members of the Corporation.

Clause 25 (Original Clause 22): This Clause provides for the accounts and audit of the Corporation. Here we would point out the omission of any provision for audit by the Comptroller and Auditor General of India, which we find most objectionable from the point of view of public accountability. The entire capital of the Corporation is to be found from public funds voted by the Parliament

(Clause 25), and the policies as well as bonuses are to be guaranteed by the Central Government (Clause 28). Since the Treasury would be called upon to bear the entire financial responsibility regarding life insurance in India, it is imperative upon the Parliament to secure the public accountability of the Corporation, which could be done only by subjecting the Corporation's accounts to the audit of the Comptroller and Auditor-General of India, the only authority competent to carry out audits on behalf of the Parliament. The majority report favours the appointment of auditors by Corporation with the approval of the Government, which is bad in principle inasmuch as the Auditor-General alone is competent to carry out audits on behalf of the Parliament, which represents the interest of shareholders, who are in this case the general public; and the Corporation and the Government—who occupy in this case a position analogous to that of the board of directors of a company—have no right whatsoever to appoint auditors. Even the Companies Act, 1956 (Section 619) prescribes the audit of the Auditor-General in the case of all Government companies.

Moreover, the clause as adopted by the majority does not include provision for the keeping of accounts on the basis of the Insurance Act, 1938, or the Indian Companies Act, nor does clause 34, as adopted by the majority, make the sections of the Insurance Act, 1938, relating to accounts compulsorily applicable to the Corporation. Should the Parliament accept the majority view, it would exempt the Corporation from the common law of the land and also from accountability to the Parliament. We, therefore, strongly recommend that the provisions regarding the keeping of accounts by Government companies and their audit by the Comptroller and Auditor-General of India, as laid down in the Companies Act, 1956, and also the sections of the Insurance Act relating to the keeping of accounts, should be made compulsorily applicable to the Corporation to ensure its public accountability through parliamentary control.

Clause 28 (Original Clause 24): This clause provides for the application of 95 per cent. of the valuation surplus for the benefit of policy-holders, and the utilisation of the remaining 5 per cent. according to the direction of the Central Government. We would point out that this provision is unjust to the policy-holders of those companies that have been appropriating less than 5 per cent. for the benefit of shareholders either by a tacit understanding or under the provisions of their Articles of Association. How can the Government justify the appropriation of 5 per cent. when they are taking a smaller percen-

tage into account for the purpose of calculating compensation payable to some companies? The Government have not indicated the purposes for which such funds may be used. The surplus would go on increasing every year, and there would be no justification for appropriating an increasing amount every year for unknown purposes. The only purpose for which such appropriations might be rightly used is the payment of dividend on the capital provided by the Government, and we recommend that, out of the valuation surplus, a reasonable dividend should be paid on the capital, and the entire balance should be utilised for the benefit of policy-holders.

Clause 43 (Original Clause 34): This clause provides for the compulsory application of certain provisions of the Insurance Act to the Corporation; the application of some other provisions with suitable modifications; and the application of any of the remaining provisions of the Act, with such modifications as the Government might think fit, only if the Government do so by notifications.

The Insurance Act lays down certain principles to guide the conduct of insurance business. Such principles are as relevant to the Corporation as to private insurers, and the exemption of the Corporation from these cannot be justified. Among the important provisions that have not been made directly applicable to the Corporation are those regulating investments and expense ratio, requiring filing of return of investments, requiring payment of money into court owing to conflicting claims for policy money, and those providing for licensing of insurance agents and declaration of *interim bonuses*.

The basic principle guiding investment policy should be to spread investments as widely as possible to ensure the safety of the funds invested and to secure a good yield. Section 27 of the Insurance Act, 1938, requires insurers to invest at least 50 per cent. of their controlled funds in Government and quasi-Government securities. After nationalisation, the Government would be naturally inclined to invest as large a proportion of the funds as possible in such securities. But as the interest on such securities is considerably lower than the dividends from industrial securities and the return on other investments, such as property, the average yield would tend to be low. Therefore, to secure a higher yield, in order to enable the payment of higher bonuses, there should be a maximum limit, say 55 per cent. on investment in Government and quasi-Government securities, so that a substantial proportion of the funds remain invested in more remunerative investments. We also recommend that the limits provided in the Insurance Act on investment in individual companies should be made applicable to the Corporation to

avoid concentration of investment in a few companies. This would secure the safety of the funds so invested by spreading the risk over a broader base.

Regarding the expense ratio, the Corporation has been given a monopoly of life business, and its policies are guaranteed by the Government. It is likely to get a large amount of business without any canvassing, and it will not need to incur expenditure on competitive salesmanship, which should enable it to maintain its expense ratio at low level. It would therefore be justifiable not only to provide for the application of the provisions of Section 40B of the Insurance Act regarding the expense ratio, but also to provide for a lower ratio than that laid down for private insurers. We recommend that Sections 27, 27A and 40B of the Insurance Act, 1938, with modifications suggested above, be made compulsorily applicable to the Corporation, and that sections 28, 28A, 29, 30, 42, 47, 48 and 112 be added to the list of sections given in clause 34(2).

The First Schedule: This schedule lays down the basis of compensation payable to insurers. The basis of compensation involves the consideration of mainly the method of valuing the surplus, the relevant period of valuation and the percentage of the valuation surplus appropriated for the benefit of the shareholders, which are to be taken into account.

As regards the period of valuation, the formula in Paragraph 1 of the Schedule as adopted by the majority takes the average of the last two valuations (or a minimum period of four years) of every company, and adjusts the figure with the average business in force during the calendar years 1950 to 1955. The point to be considered in this respect is whether the annual earning capacity of the business taken over should be calculated on the basis of an average spread over a number of years, or as on a certain date. For valuing the annual earning capacity of an ordinary trading business, the profits of a number of years, which are low in some years and high in others according to trading conditions and other factors, are averaged. But such a basis would be unfair in the case of life insurance business, as it is inherently of a growing nature, and the valuation surplus keeps on increasing every year, instead of fluctuating from year to year as in the case of trading businesses. Therefore, the earning capacity of the life business taken over would be highest on the date on which it was taken over, and its earning capacity should be calculated as at 31st December, 1955 the nearest convenient date for estimation purposes. The basis adopted in the majority report is the average of the surplus of the last two valuation periods as adjusted by the average business in force during the

calendar years 1950 to 1955, which shifts the date taken into consideration for determining the earning capacity back by as much as about three years or more in the case of every company. This is obviously unfair in the case of a business showing an ever increasing valuation surplus, and steadily increasing earning capacity, the average annual rate of increase during recent years being about 20 per cent. Thus, instead of taking into account the annual earning capacity as at the end of 1955, the majority formula will result in the taking into account of the earning capacity as at the end of 1952 or an earlier date. The underestimation of compensation on account of this back-dating is likely to be considerable. We think that the most fair arrangement would be the valuation surplus for the year 1955, but if that is found to be unacceptable, then we recommend that the basis for every company should be its last valuation surplus adjusted in proportion to the business in force as at the end of the year 1955.

As regards the percentage of the surplus to be taken into account for compensation purposes, there is no reason to vary the percentage allocation by any company within the limits laid down by law. Only a few companies have allocated less than 7½ per cent, the limit specified in the Insurance Act, and they have done so for various reasons, such as, to attract more business and to conform to their Articles of Association. As long as the percentages taken into consideration for calculating the compensation payable to such companies are the same as, or higher than, those at which the respective companies appropriated their valuation surpluses for the benefit of their respective shareholders, no injustice would be done to them if the percentages taken into account for calculating the compensation payable to other companies were the same as those at which the latter appropriated their valuation surpluses for the benefit of their respective shareholders. On the other hand, injustice would be definitely meted out to the latter companies if the percentages taken into consideration are less than those at which they appropriated their respective valuation surpluses for the benefit of their shareholders. Share values had got adjusted on the basis of the arrangements in regard to the division of the valuation surplus between policyholders and shareholders, and it would be being unfair to those shareholders who had purchased shares on the basis of such arrangements. The limit of 7½ per cent laid down in the Insurance Act, 1938, is low compared to the limits prevailing even in advanced countries. In the U.K. there is no statutory limit, but the country's largest company namely, the Prudential, has allocated 8 to 10 per cent; and in Canada, a company of a size comparable to the leading Indian life company, namely the Oriental, would be entitled to appropriate about 10 per cent for the benefit of its shareholders. In India.

the conventional limit was 10 per cent up to the year 1950, after which it was reduced statutorily to $7\frac{1}{2}$ per cent. The upper limit of 5 per cent laid down in the original Bill and endorsed by the majority, therefore, appears to us to be arbitrary and unfair. The original Bill laid down that companies appropriating less than 3 per cent should be allowed 3 per cent as the basis, companies appropriating over 3 per cent and up to 5 per cent should be allowed the actual percentage appropriated as the basis, and those appropriating over 5 per cent should be allowed only 5 per cent as the basis. The majority report increased the limit of 3 per cent to $3\frac{1}{2}$ per cent, keeping the other provisions as they were in the original Bill. We think that they should have raised the percentage also in the case of those companies appropriating more than 5 per cent correspondingly, say to at least $6\frac{1}{2}$ per cent or so. However, we feel that the basis for any company should be the actual percentage appropriated by that particular company in its last valuation.

There is another consideration which militates against the interest of the shareholders of existing companies. In valuing the surpluses, the assumptions regarding mortality figures, interest yields and expense ratios taken into account had been always on a conservative basis, the margin for this purpose being, according to the representations made by life insurers, of the order of about 20 per cent. No adjustment has been made on this account in the amount of compensation payable.

We would also recommend that compensation should be made payable within a reasonable time, say by 31st December, 1956, and that the amount of compensation should bear interest at $3\frac{1}{2}$ per cent from 19th January, 1956, the date of acquisition of the business, till the date of payment.

We feel that viewing the matter from all points of view, there is no reason whatsoever to undercompensate shareholders of the great majority of insurance companies, a large proportion of whom belong to the middle class. After all, the total amount of compensation involved is not large, and payment on a fair basis would not cause the slightest embarrassment to governmental finances. Moreover, the compensation monies will ultimately come from the insurance funds, and not from public funds. We, therefore, strongly recommend the payment of fair compensation on the basis suggested above.

NEW DELHI;
The 30th April, 1956

TULSIDAS KILACHAND
G. D. SOMANI

IV

Scope of clause 15 is very wide. In the original Bill the Corporation is empowered to apply for relief. Select Committee authorises in addition 'any other person interested'. I do not agree to this addition. This will give a handle to designing persons to blackmail, intimidate, or harass people by going straight to the Tribunal. In any bonafide case, any person may furnish materials to the Corporation and get the remedy if any.

UPENDRANATH BARMAN

NEW DELHI;

The 30th April, 1956.

V

I have gone through the Report of the Select Committee. There are some points on which I do not agree with the Report.

The first is the provision contained in Clause 12(c). This provision will work hardship for those employees who unwittingly fall within the category described therein. Once the principle of continuing the service of existing employees of Insurance is accepted, the distinction between the employee of the Insurer and that of its Chief Agent must go. I would have gone a little further and suggested that even the Chief Agent should be continued as an employee if he chooses to do so and exercises such option within a particular specified period. I could not make a concrete suggestion in this respect because the terms and conditions of employment of the Chief Agent differed with different insurers and the ability of each also differed materially between one and the other. In this connection, I would also mention that the provision contained in clause 36, with special reference to the Chief Agent, is not just.

I very strongly object to the provision contained in clause 15 which provides for reopening cases as old as five years and overreaching the principle underlying such provisions, namely, that of **declaring fraudulent transfers void**. The Presidency Insolvency Act and the Provincial Insolvency Act provide for such going back to two years and the provision of the Limitation Act also limits the action to two years within such act of malfeasance and misfeasance. Serious complications are likely to arise by making this provision of extending this period to five years and, when the right of such determination is left in the hands of the Tribunal, and exclusively so, justice and prudence demand that the period of two years shall not be exceeded.

I strongly object to the provision of a penalty of one year's imprisonment provided in clause 40. What was needed was a coercive provision and not the provision of a deterrent punishment after all, the offence consists only in withholding or failing to deliver and, with no restriction of any time limit, it boils down to the position of a recalcitrant attitude on the part of an employee of an Insurer which may look wilful but may not be so. The provision ought to have been split into two. The retention of property unlawfully could have been dealt with separately and the withholding of any book, document or other paper separately. In the former case, the punishment of six months may appear just, but in the latter case, a mere fine would have been enough.

With these comments, I approve of the Report.

U. M. TRIVEDI

NEW DELHI;
The 30th April, 1956.

VI

We are in complete agreement with the general principles of the Bill as it has emerged from the Select Committee. When the country is being obliged to seek foreign aid and resort to deficit financing for the purposes of economic development, we can hardly afford to leave the control of so huge a fund as the life insurance funds to private individuals to use them without any regard to national needs. Even apart from national needs, however, the way the insurance business is being conducted, and in particular the extent to which malpractices have been growing in and corrupting the business, is in itself a complete justification for nationalisation. It is greatly to be regretted that nationalisation has been confined to life insurance alone and that general insurance has been left untouched. All the arguments for nationalisation of life insurance apply with the same force to general insurance. As a matter of fact, malpractices like rebating are more rampant in general insurance concerns than in life insurance concerns. We are of the opinion that the general business at least of all composite insurers should have been taken over by the Corporation as otherwise most of the composite insurers will be unable to function after being deprived of their life business and will be compelled to retrench the staff engaged in their general insurance business. Besides, the taking over of the general business of the composite insurers would have obviated many complications in respect of the separation of their paid-up capital, the allocation of employees as between their life and general business and other matters.

2. Although we are in complete agreement with the general principles of the Bill, still we are constrained to write this minute

of dissent because we have differences, and in some cases, the strongest differences, with some of the provisions contained in the Bill. The major differences relate to the grant of compensation to insurers, the payment of compensation to employees on termination of service, provisions empowering reduction of amounts of insurance under contracts of life insurance, the representation of employees' interests in the Corporations, the provision regarding audit and investment of the Corporation's funds.

Compensation

3. In the case of insurance companies which have a share capital on which dividend is payable and which have allocated the whole or any part of the surplus disclosed in the last actuarial investigation for payment of bonus to policyholders, a method of calculating compensation has been laid down in Part 'A' of the First Schedule which proceeds on the principle that the shareholders of such companies must be guaranteed in perpetuity an amount of income which will bear some approximation to the amount that they could reasonably expect to earn as divided in future.

4. We feel it our duty to express our strongest disapproval of this principle. We must make it clear that we are not, as is commonly supposed, for expropriation of those whose undertakings are to be nationalised in this country. On the other hand, we are for paying a fair compensation to every one affected by nationalisation. What is fair compensation cannot, however, be determined from the point of view of the receiver alone and must have some relation to what is paid to the other classes in society in similar circumstances. Under the Workmen's Compensation Act, all that the worker would be entitled to in the case of permanent total disablement by injuries received in the course of his employment is about $3\frac{1}{2}$ times his annual earnings at the level of wages which is usually prevalent now. If a worker or a clerk is retrenched, all he can claim under the Industrial Disputes Act is one month's notice pay and half a month's pay for every year of service rendered. A person who has been retrenched after twenty years of service can, therefore, claim only 11 months earnings under the law. Under clause 11(2) of this very Bill, if an employee's services are terminated, he is entitled to only three months pay, unless the company from which he was taken over had provided for any gratuity or provident fund. Under these circumstances, it appears to be preposterous to claim or to be allowed twenty times the earnings referred to above.

5. Even apart from considerations of social justice, from the point of view of investors in insurance companies themselves, the basis does not seem to be fair. Investors in life insurance companies take much less risk with their money and get much greater return

than investors in other kinds of undertakings. From the point of view of returns, there is no business less exposed to risk and more able to earn than life insurance business. With reasonable efficiency in management—and that is what every investor would make sure before investing in any concern—a life insurance concern can never come to grief. On the other hand, the amount of funds a life insurance concern controls and the return that it earns from such control is out of all proportion to the capital invested in the concern. Surely, the community cannot be expected to guarantee to a small section of it such a disproportionate earning for eternity.

6. Besides, the life insurance concerns cannot appropriate to themselves all the credit for the growth in the volume of business which has occurred recently. The increase in the earnings of some sections of the population due to increased public expenditure and the income-tax reliefs granted for some time past in respect of premiums have contributed to no small extent to the growth in the volume of business.

7. We are emphatically of the opinion that the criterion in determining the fairness or otherwise of a compensation is, on the one hand, whether it is so excessive that it is disproportionate to what other classes in society can expect under similar circumstances, and, on the other hand, whether it is so meagre as not to afford a reasonable chance of rehabilitating himself to any person who may have been wholly or mainly dependent on the income received from his investment for his livelihood. According to this criterion, we feel that 10 years' earnings, instead of twenty years', is more than generous and actually tends to be unconscionably high. However, we would be prepared even to go up to ten times the last dividend paid but anything beyond that would be an outrage on the conscience of society.

Compensation to employees

8. In striking and unjust contrast to the provisions of Part 'A' of the First Schedule relating to compensation to insurance companies is the provision of clause 11(2) which relates to compensation payable to employees whose services are to be terminated by the Corporation if the scheme of rationalisation of pay scales is not acceptable to the employee. The compensation provided in this case is only 3 months pay. Unless the company under which he was employed had provided for gratuity or provident fund, he would not be entitled to any other benefit except 3 months pay. Particularly, in the case of clerks and members of the subordinate staff, so meagre a compensation would cause great hardship. We are, therefore, strongly of the opinion that in the case of clerks and the members of the subordinate staff, the compensation payable on termination

should be 6 months pay or one month's pay for every year of service or part thereof exceeding 6 months, whichever is more, or, if the employee concerned is entitled to any gratuity, provident fund or other retirement benefit, the aggregate of such benefits *plus* three months pay or the amount payable under the formula mentioned above whichever is greater.

Reduction of Policy Values

9. We cannot too strongly express our disagreement with and opposition to clause 14 empowering the Corporation to reduce the amount assured to policyholders in respect of policies issued by insurers who may be found to be insolvent. In many cases, the alleged insolvency may be partly or wholly due to under-valuation of assets and over-valuation of liabilities. It is not rare that authorities in control of insurers undervalue assets in order to make illicit profits by buying the assets from the insurers at a nominal value or in any event at much less than the proper value. Over-valuation of liabilities has also been not infrequent.

10. But apart altogether from the considerations mentioned in the previous paragraph, the provisions in clause 14 is disastrous. The psychological reaction and the apprehensions that will be caused by the very existence of this clause in the Bill will be a most inauspicious start for the nationalised insurance business. Provisions like this give rise to much greater alarm, panic and loss of confidence than is actually warranted by them. It may be contended that the State cannot be expected to guarantee to imprudent policyholders the amount payable on policies which they took out from badly managed companies without circumspection. We shall show in the succeeding paragraph that the fault is not the policyholders. But even if it were so, the matter should never be looked at from a doctrinaire point of view. In view of the very small amount involved in honouring liabilities on such policies, in view of the psychological reaction which the refusal to honour such liabilities would cause and in view of the responsibility of the State itself as shown in the succeeding paragraph, an exception must be made in this case.

11. Lastly, it is entirely wrong to blame the policyholders and still more so to make them suffer for the mismanagement and malpractices in the companies with which they are insured. They have been all along paying their premiums according to their contract and they relied, and were fully entitled to rely, on the vigilance that the Government was supposed to be keeping over the affairs of all insurers. The insurers operated under a license from the Government. Elaborate safeguards were provided by the insurance

Act, and, above all, the Government through the Controller of Insurance was vested with extensive supervisory and controlling powers. If with all this the government failed to prevent mismanagement, it would be a travesty of justice to blame the policy-holders for improvidence or imprudence and to rob them of their dues after they had fully paid their premiums. It is, therefore, our emphatic opinion that clause 14 should be deleted.

Representation of employees' interests on the Corporation

12. The All India Insurance Employees Association, which can easily claim to be the sole spokesman of insurance employees throughout the country, had claimed representation of employees on the Corporation, on its Executive Committee and on the zonal advisory Boards upto not less than one fifth of their strength. The Association had also claimed at least equal representation for employees on the board of trustees of any provident fund, superannuation fund or other like funds established for the benefit of employees. These claims are by no means too high and it is a matter of deep regret that these claims were not provided for in the Bill.

Audit

13. In a Corporation of this kind, where 15 persons will have control of enormous funds, strict audit is absolutely essential. It has been found from the experience of bodies like the Industrial Finance Corporation that when its members by reason of transgression of rules and of their duty cause wastage of the financial resources of the corporation, the attempt of government is to shield them rather than to correct them. Under these circumstances, audit by an auditor appointed by the Corporation and approved by the Central Government is not only likely to be not too strict and exacting on occasions when strictness is most needed but runs the risk of being tractable and evincing a tendency for covering up or glossing over irregularities. On the other hand, the audit by the Comptroller and Auditor-General has in the past been instrumental in uncovering many irregularities in many government and quasi-government organisations, and by its strictness and independence, it has inspired public confidence. It is essential that such an exacting audit should be provided for a Corporation of this kind which will in course of time come to handle thousands of crores of public money. We are, therefore, strongly of the opinion that clause 25 should be amended so as to

provide for audit by the Comptroller and Auditor-General or by some other person designated by him. Such audit is provided for in the case of the Indian Airlines Corporation and the Air India International by the Air Corporation Act. There is no reason why an exception should be made in the case of the Life Insurance Corporation. On the other hand, due to its control over infinitely larger funds, and due to the fact that such funds would come from millions of policy-holders and would have to be properly administered in their interest, the case for such audit in respect of the Life Insurance Corporation is much stronger.

Investment of Funds

14. If we are serious about planning and particularly about rapid industrialisation of our country, we have to find considerable financial resources. In an under-developed country like ours the capacity of the people to bear tax burdens for financing economic plans is bound to be limited. We cannot rely too much on foreign aid, and in any event, the amount of foreign aid that might be forthcoming during any particular period must remain unpredictable and cannot be taken into account without the danger of our calculations being upset and the plan being thereby dislocated. Under these circumstances, we have been compelled to resort to deficit financing. Deficit financing, however, has grave limitations and already an inflationary pressure seems to be making itself felt and prices seem to be going up. In this predicament the enormous funds at the disposal of the Life Insurance Corporation, if properly channelized for the purpose of national development, would be an invaluable asset for the purpose of economic planning. We are therefore, of the view that all the investable fund of the Corporation should be invested in Government securities in so far as they are not invested in loans granted to policy-holders and the Government should guarantee an interest of $3\frac{1}{2}$ to 4% on such investments. This would put the entire funds of the Corporation at the disposal of the country to be used for our economic development. In this connection, we feel constrained to express our complete disapproval of the promise given by Government that the same proportion of life insurance funds will continue to be invested in the private sector as was being invested hitherto. We are far from being opposed to the Corporation funds being invested in the private sector. But the private sector should certainly not be allowed to claim any proportion of the funds invested merely on the ground of its being the private sector. The investable funds must be distributed in different undertakings, whether in the public or private sector, in accordance with the relative priorities enjoyed by those undertakings in the interest of national development. To adopt another course, would impose a serious fetter on the proper investment of the funds

of the Corporation and would deprive the country of substantial resources which we should legitimately expect to be used for our national development.

Some other important points of disagreement

15. *Rights and Privileges of employees and field staff.*—We have already indicated our disagreement with the provisions made in the Bill for payment of compensation to employees on termination of service and our deep regret at the failure to concede the claims of the All India Insurance Employees Association for representation of employees on different bodies. We give below some other important points in which we differ from the provisions of the Bill relating to rights and privileges of employees and field staff and also indicate some important provisions which should have been made in the Bill in relation to the same matter.

(i) In respect of employees absorbed by the Corporation we desire that sub-clause (i) of clause 11 should be amended so as to specifically guarantee not only their pension and gratuity but also their provident fund, valuation or other bonuses and all other monetary benefits present and future which they were entitled to on the day of their absorption. We would also desire that out of the five percent of the surplus left in the hands of the Corporation under clause 28, a portion, preferably one half, should be utilized for payment of bonus to the clerical and subordinate staff of the Corporation.

(ii) The provision of clause 23(2), that every employee of the Corporation shall be liable to serve anywhere in India will cause great apprehension among the clerical and subordinate staff and the field staff. This clause should be amended to provide that employees belonging to the clerical and subordinate staff are not to be ordinarily transferred outside their zone except with their consent or on payment of adequate compensatory allowance. It should also be provided that a member of the field staff will not be ordinarily transferred anywhere without his consent.

(iii) The provision in clause 11(2) empowering the Corporation to reduce remuneration for the purpose of rationalising the pay scales should not apply to the clerical and subordinate staff as there is no justification for the reduction of their remunerations.

(iv) We feel that all disputes between the employees and the Corporation and in particular all disputes relating to the rights of employees of existing insurance companies to be absorbed by the Corporation, should be adjudicated upon, if necessary, by a tribunal

appointed under clause 17. Clause 11 should, therefore, be suitably amended so as to make such a provision.

(v) We welcome the provision of clause 12 for absorption of the staff of chief agents but we are of the opinion that it would be just and fair to extend this privilege also to the staff of private actuaries who would otherwise go out of employment.

16. *Certain disqualifications of the members and officers of the Corporation.*—(i) It is absolutely essential that persons who are known to have been opposed to nationalisation of life insurance should not be appointed to be member or responsible officers of the Corporation. Their conviction about the undesirability of nationalising life insurance business cannot but make them psychologically unfit for conducting the affairs of the Corporation and may in some cases even expose the Corporation to the risk of deliberate sabotage. Further, any person who has to the knowledge of the Central Government misappropriated or misapplied insurance funds or mismanaged any insurance company, should be specifically disqualified from being a member or an officer of the Corporation. (ii) We are also of the opinion that zonal managers should in no case be members of the Corporation as that might embarrass the other members in being sufficiently strict in exercising their control over such a zonal manager.

17. *Application of the Insurance Act.*—We are also of the opinion that sub-section (1) of section 40A, relating to commission to agents and section 44 should apply to the Corporation without any modification.

18. *Parliamentary control in respect of regulations made by the Corporation.*—The regulations which the corporation is empowered to make under clause 49 may relate to important matters affecting millions of policy-holders such as the forms of policies, grouping of policies for payment of differential bonuses and so on. It is desirable that when provisions are made regarding such important matters affecting the interests of a large section of the people, Parliament should have some control and should be able to amend, alter or annul them. Therefore clause 40 should be suitably amended to make such provision.

19. *Extension of insurance protection to low-income groups and to rural areas.*—We feel that the Bill should have contained directive to the Corporation so as to conduct its business and to take life insurance to the rural areas and to low-income groups. We are, therefore, of the opinion that clause 6(1) should be suitably amended to incorporate such a directive.

Some suggestions about the functioning of the corporation and its subordinate offices.

20. What is the best way of dividing up the functions connected with the working of the Corporation must naturally be ascertained from the actual experience of the working of the Corporation. But even so, some suggestions may be made regarding the immediate set-up. As immense number of policies will have to be taken over and serviced by the Corporation, an over-centralised organisation is undesirable. The difficulty is enhanced by the fact that not only have different companies different premium rates and different terms and conditions for policies issued by them but the same company has different terms and conditions and some times different premium rates for policies issued at different times. Therefore, to facilitate quick and efficient service to all policy-holders, the following minimum measures are necessary:—

(i) the functions usually performed by the head offices of the existing insurers must be entrusted not to the zonal offices but to the divisional offices.

(ii) Each divisional office must be organised in such a manner that a unit is created with the business handed over to the Corporation by each existing insurance company which has a business of 10 crores or above and each such unit should be manned by the present staff of the insurance company whose business it is entrusted to deal with. Where the business in force of any company is less than 10 crores, such company should be grouped with other similar companies so that the aggregate of their business is 10 crores or near about 10 crores, and the business of such a group should be dealt with by a unit in the divisional office which is manned by the staff of the companies grouped together.

(iii) The functions of the zonal offices should be confined to supervision over its subordinate offices and the zonal office should also be entrusted with the work of propaganda and publicity.

(iv) The central office of the Corporation should be concerned with the formulation of general policy, audit, valuation, preparation of the report of its activities and other matters of general interest and should also be in charge of investing funds if the investment of funds is left to the Corporation.

In this connection, the valuable suggestions offered in their memorandum by the All India Insurance Employees Association should be given very careful consideration.

The desirability of competition

21. In the course of the debates on the motion for reference of this Bill to this committee as well as on the Life Insurance (Emergency Provisions) Bill, a strong plea about the desirability of providing some form of competition in life insurance business was raised by certain members of Parliament. It was stressed that competition would secure efficiency and would therefore be beneficial to policy-holders. It was therefore suggested that either the private sector should be allowed to continue to operate along with the public sector or a number of corporations should be formed to compete with one another. We are entirely opposed to any competition and fully agree with the provisions of clause 30 giving the corporation the monopoly of the life insurance business.

22. Even assuming that competition has secured efficiency in the private sector, the same cannot be expected in the case of competition between a number of statutory corporations. Such corporations will have no particular interest to show better results than other similar corporations because the profits resulting therefrom will not be distributable among their members. Whatever other incentives there may be such as appreciation by the public and by the government can be produced in a corporation with a monopoly by suitable awards to efficient field staff, by bonuses to employees and by other means. On the other hand, a multiplicity of corporations will be responsible for tremendous wastage by multiplying expenditure at all levels.

23. Besides, the argument that competition secures efficiency is not borne out by our experience in this country. Competition has in the past led to the evils of rebating and uneconomic rate cutting and by driving insurance companies anyhow to increase the volume of new business has been responsible for the unbelievably high lapse ratio in this country. It is therefore clear that there is no case either for allowing the private sector to operate side by side with the public sector or for creating a multiplicity of statutory Corporations.

24. There are also a number of minor amendments which should be made in the Bill but we refrain from enumerating the same for the sake of brevity.

25. We recommend that the Bill be passed with amendments made in the light of this minute of dissent and with some minor amendments.

NEW DELHI;
The 30th April, 1956.

SADHAN GUPTA
K. ANANDA NAMBIAR

VII

We regret the necessity to append a Note of Dissent to the Life Insurance Corporation Bill, 1956 as amended by the Select Committee. Clause 14 of the amended Bill provides for reduction of 'amounts of insurance under contracts of life insurance entered into by an insurer before the 19th day of January, 1956 in such manner and subject to such conditions as the Corporation thinks fit.' The proviso stipulates that no reduction shall be made 'except in accordance with a scheme prepared by the Corporation in this behalf and approved by the Central Government.' The *raison d'être* of this clause is stated to be protection of the interests of the Corporation in regard to such insurance companies whose finances at the time of the taking over were not satisfactory. Our main objection is to the procedure provided for reducing the contracted amount of life insurance, as it will entail delay. There are many insured persons whose policy may have matured or may fall due owing to death, during the period preceding the 19th day of January and afterwards. The preparation of the scheme is likely to take time and it will be very hard on widows and sons or daughters of the insured to find that they must wait for many months more before they can get any payment in respect of their insurance policies. In ordinary business, where two or more companies are amalgamated or merged into a bigger one, an assurance to all creditors is invariably given to the effect that at least a portion of the liability, be it 4 annas or 8 annas in the rupee or even more shall be met forthwith and the balance shall be paid after the assets and liabilities have been finally assessed. But in this case the liability of the merged insurers in regard to the insured persons will not be honoured forthwith even in part on the coming into being of the Corporation and policy-holders will have to wait for a period which, according to our calculation, may be, two years or more. We know of cases where death of the insured occurred 5 or 6 or 8 months before the coming into being of the Corporation and the insurers in their case had not honoured their liability till 19th January, 1956. Now the widow or the sons and daughters of the deceased will have to wait probably for another year or a year and a half before the scheme is ready in regard to payments. We regret very much that provision for honouring at least one-fourth of the liability forthwith in regard to such life insurance, pending preparation of the scheme, has not been made in the Bill as amended by the Select Committee. Considerations of humanity as well as the good name of the new Corporation require that the suggestion for an initial part-payment be accepted.

The new clause 25 which corresponds to clause 22 of the original Bill provides for the appointment of auditors by the Corporation

with the previous approval of the Central Government. We hold that wherever government moneys are invested, the right of the Comptroller and the Auditor General to audit the accounts of such concerns cannot be taken away by any provision in any law whatsoever. The Auditor General under the Constitution has a right to go into the accounts of any body or organisation which is financed from the Consolidated Fund. But the scheme of audit as envisaged in the amended Bill provides for the report of Corporation's own auditors to be placed before the Houses of Parliament and this provision seems to us to be designed to serve as an audit report parallel to that of the Auditor General. Whereas there is nothing wrong in the Corporation having its own Auditors, any attempt at encroachment on the rights of the Auditor General directly or indirectly in regard to moneys drawn from the Consolidated Fund, involves not only constitutional impropriety but also setting up of a convention which is not desirable from the point of view of parliamentary control. Moreover, the auditor of the Corporation cannot question any transactions if they have got the approval of the Corporation or of the Government, on grounds of policy or financial impropriety. It is improper to vest the authority of appointment of auditors in the very organisation whose accounts are to be audited. For effective parliamentary control it is desirable that the advice of the Comptroller and Auditor General on even policy matters of the Corporation should be available to the sovereign Legislature of the country. Moreover, the Auditor General, is already auditing postal life insurance and in the circumstances any attempt to by-pass his authority in the matter of this Corporation's transactions does not appear to be consistent.

Our third objection is in regard to sub-clauses (a) & (b) of paragraph 3 of Part B of the First Schedule, (page 26). In any scheme of compensation to accept market value as the only criterion will be setting up an undesirable precedent. As this bill is one of first few measures of nationalisation of business, it is important that right conventions should be established from the very beginning. There was no meaning in amending Article 31 of the Constitution if it was intended to pay compensation according to market value only when a concern is taken over by the State. The deletion of the words "or the purchase price" from sub-clause (b) of paragraph 3 is in our opinion, giving undue importance to market value in the matter of granting compensation for properties taken over by the State. We feel that when the Corporation is going to disown or reduce its liability in regard to the policy-holders under clause 14 of the amended Bill, it would be unfair to provide for appreciated evaluation of the assets of an insurer according to market value. The Corporation's

primary duty is towards policy-holders. That these persons should get a worse treatment than the very limited number of shareholders, is, in our opinion, inconsistent with the spirit of this measure. We are, therefore, of the view that the words "or purchase price" and "whichever is less" in the original sub-clause (b) of Paragraph 3 should be retained and these words should also be added to sub-clause (a) of Paragraph 3.

We would also like it to be made clear in the Bill itself that service and work under the Corporation will amount to a disability disqualifying from membership of Parliament.

FEROZE GANDHI.
T. N. SINGH

NEW DELHI;
The 30th April, 1956.

VIII

The taking over of the Life Insurance business which had been in the hands of private enterprise was a historic act of the Government of India as it gave for the first time a shake in the mind of a section of the community which believed in private enterprise and which held an influential position in the economic pattern followed by the Government of India. While welcoming this act of the Government, I have to make certain observations as the taking over of the life insurance is proclaimed as part of the larger economic policy of the Government of India.

I am one of those who did not fully agree with the economic policy of the Government of India as it has left a lot of uncertainty about the future set-up though it claims that the socialistic pattern is the line along which the economic policy is basically moulded. Neither in the Second Five Year Plan nor even in the First, there was any definiteness about this, and this indefinite attitude is cleverly interpreted as a fluid economic approach or democratic way of socialistic economic moulding. To an economist or to a clear thinking citizen, this position of confusion leads to decide that there is an inherent conflict in the economic policy of the Government of India. The same vagueness was apparently seen in the pronouncement made by the Government at the time the Life Insurance was taken up.

Nationalisation of the economic means of a country is inevitable in the socialistic economy but the same can be done by a State which has not strictly followed the doctrinaire approach to socialism. To

make it more clear, a Government which is in power can take in its control many economic enterprises, even if it is not following the socialistic pattern. The Indian Government's claim to adopt socialism is based on the Fabian socialists of Great Britain or of Western Europe and it has not taken in itself the correct idea of Marx or Engels. In Britain or in Western Europe, where there is a highly developed economy built on modern methods of industrialisation, it may be good or it might have even done greater good too to the people. But, in India with a backward economy and a backward industrial standard this pattern of western socialism is not only a misfit but will spell danger too.

My own feeling is that the economic policy based on the present activities of the Government is only helping the Government to concentrate its power more and more over the economic forces of the country with result that instead of becoming a 'director' of the economy of the country, it will have to assume the role of a 'dictator'. This is the danger which I visualise in the economic policy of the Government of India. A socialistic economic measure or policy will have to take its beginning not from the top but from the bottom, and this alone will pave the way for Democratic Socialism in the country. In this to reject Marx or Engels is a negation of socialism and it is needless to say that the Government of India has never accepted either Marx or Engels in their approach to the socialistic social order.

The nationalisation of life insurance is strictly speaking an act of state ownership and it has no intrinsic value as far as socialism is concerned. But there is an indirect effect of the state ownership brought by the Government on the life insurance. It has weakened to a great extent the dream of the private sector to build up its own 'Empire' within the State. It has resulted in demoralising their mental attitude both towards the Government as well as to its economic policy.

The Bill after prolonged discussion in the Select Committee has undergone considerable changes both in its form and in its content.

The first thing to be mentioned here is the compensation. I am one who feels that compensation in a just form should be given to the insurers. It is very bad to condemn those who built an industry and then take over the same for the use of the Government itself. I, therefore, give full credit to the people who have built up a mighty industry covering perhaps a greater part of the economic life of the country. When I extend my praise to the insurers, I include all those who have had a share in the building up of the industry.

Life Insurance was till yesterday an Industry, but it will not be so after it is taken over by the Government. Its role tomorrow is to build up social security based on State's responsibility in rendering social security to those who deserve it in all stages of life. Therefore the spirit of competition will be replaced by the spirit of social welfare and I am sure that the life insurance would emerge as one of the biggest Social Welfare Schemes in the country.

Compensation is paid to the Insurer, the Chief Agents and the Special Agents who had any role in building up the industry. I am sure that there will be no complaint from any sector as far as compensation is concerned.

The workers of Life Insurance were having a painful feeling about their future when Insurance was taken over by the Government. But it is my view that not a single worker in the insurance taken over by the Government should suffer either retrenchment or removal for any normal cause whatsoever. On the other hand, a Board must be set up to revise the pay scales of the lower paid staff who had done yeoman service in the insurance field. Their pay should be definitely increased. In fact, those who are paid up to Rs. 800/- may be given better salary, and an All India Service Cadre of Insurance Employees should be created on the basis of the work each category was doing in the past. We will have to get more workers in the insurance field as the functions of the Corporation will increase in a considerable measure.

The insurance organisation should have to evolve a new pattern of ownership or management. It is my view that representation should be given to the policy holders, the field workers as well as to the Government on the Insurance Corporation. In fact, Government control should be limited to a great extent and the Corporation should be given the largest measure of democratic functioning.

So far as the auditing of the Corporation is concerned, it must be done by the Auditor General of India and the report should be presented before the Parliament for approval.

With regard to foreign insurance, it should be handed over to the same composite insurance companies doing there general business at present. In no case, a cartel should be created in the line of foreign insurance left over.

Insurance has got a great scope in India and life insurance will have more chances of development. The amount blocked out of Insurance should be made use of for social welfare measures by

the Government taking it over after paying due interest to the Corporation.

I feel that the venture is a great one and I hope it would be a great success.

R. VELAYUDHAN

NEW DELHI;
The 30th April, 1956.

THE LIFE INSURANCE CORPORATION BILL, 1956

(AS AMENDED BY THE SELECT COMMITTEE)

(Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.)

BILL No. 9-A OF 1956

A Bill to provide for the nationalisation of life insurance business in India by transferring all such business to a Corporation established for the purpose and to provide for the regulation and control of the business of the Corporation and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

5 1. (1) This Act may be called the Life Insurance Corporation Act, 1956. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,— Definitions.

10 (1) “appointed day” means the date on which the Corporation is established under section 3;

(2) “composite insurer” means an insurer carrying on in addition to controlled business any other kind of insurance business;

(3) "controlled business" means—

(i) in the case of any insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 of the Insurance Act and carrying on life insurance business—

(a) all his business, if he carries on no other class 5
of insurance business;

(b) all the business appertaining to his life insurance business, if he carries on any other class of insurance business also;

(c) all his business, if his certificate of registration 10
under the Insurance Act in respect of general insurance business stands wholly cancelled for a period of more than six months on the 19th day of January, 1956;

(ii) in the case of any other insurer specified in clause (9) of section 2 of the Insurance Act and carrying on life 15
insurance business—

(a) all his business in India, if he carries on no other class of insurance business in India;

(b) all the business appertaining to his life insurance business in India, if he carries on any other class 20
of insurance business also in India;

(c) all his business in India, if his certificate of registration under the Insurance Act in respect of general insurance business in India stands wholly cancelled for a period of more than six months on the 19th day of 25
January, 1956;

Explanation.—An insurer is said to carry on no class of insurance business other than life insurance business, if, in addition to life insurance business he carries on only capital redemption business or annuity certain business or both; 30
and the expression "business appertaining to his life insurance business" in sub-clauses (i) and (ii) shall be construed accordingly;

(iii) in the case of a provident society, as defined in section 65 of the Insurance Act, all its business; 35

(iv) in the case of the Central Government or a State Government, all life insurance business carried on by it, subject to the exceptions specified in section 44;

(4) "Corporation" means the Life Insurance Corporation of India established under section 3;

4 of 1938.

(5) "Insurance Act" means the Insurance Act, 1938;

5 (6) "Insurer" means an insurer as defined in the Insurance Act who carries on life insurance business in India and includes the Government and a provident society as defined in section 65 of the Insurance Act;

(7) "member" means a member of the Corporation;

10 (8) "prescribed" means prescribed by rules made under this Act;

(9) "Tribunal" means a Tribunal constituted under section 17 and having jurisdiction in respect of any matter under the rules made under this Act;

15 (10) all other words and expressions used herein but not defined and defined in the Insurance Act shall have the meanings respectively assigned to them in that Act.

CHAPTER II

ESTABLISHMENT OF LIFE INSURANCE CORPORATION OF INDIA

20 3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established a Corporation called the Life Insurance Corporation of India.

Establishment and incorporation of Life Insurance Corporation of India.

(2) The Corporation shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, and may by its name sue and be sued.

4. (1) The Corporation shall consist of such number of persons not exceeding fifteen as the Central Government may think fit to appoint thereto and one of them shall be appointed by the Central Government to be the Chairman thereof.

Constitution of the Corporation.

30 (2) Before appointing a person to be a member, the Central Government shall satisfy itself that that person will have no such financial or other interest as is likely to affect prejudicially the exercise or performance by him of his functions as a member, and the Central Government shall also satisfy itself from time to time with respect to every member that he has no such interest; and any person who is, or whom the Central Government proposes to appoint and who has consented to be, a member shall, whenever required by the Central Government so to do, furnish to it such information as the

Central Government considers necessary for the performance of its duties under this sub-section.

(3) A member who is in any way directly or indirectly interested in a contract made or proposed to be made by the Corporation shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of his interest to the Corporation; and the member shall not take part in any deliberation or discussion of the Corporation with respect to that contract. 5

Capital of
the Corpora-
tion. 4

5. (1) The original capital of the Corporation shall be five crores of rupees provided by the Central Government after due appropriation made by Parliament by law for the purpose, and the terms and conditions relating to the provision of such capital shall be such as may be determined by the Central Government. 10

(2) The Central Government may, on the recommendation of the Corporation, reduce the capital of the Corporation to such extent and in such manner as the Central Government may determine. 15

CHAPTER III

FUNCTIONS OF THE CORPORATION

Functions
of the
Corporation.

6. (1) Subject to the rules, if any, made by the Central Government in this behalf, it shall be the general duty of the Corporation to carry on life insurance business, whether in or outside India, and the Corporation shall so exercise its powers under this Act as to secure that life insurance business is developed to the best advantage of the community. 20

(2) Without prejudice to the generality of the provisions contained in sub-section (1) but subject to the other provisions contained in this Act, the Corporation shall have power— 25

(a) to carry on capital redemption business, annuity certain business or reinsurance business in so far as such reinsurance business appertains to life insurance business; 30

(b) subject to the rules, if any, made by the Central Government in this behalf, to invest the funds of the Corporation in such manner as the Corporation may think fit and to take all such steps as may be necessary or expedient for the protection or realisation of any investment; including the taking over of and administering any property offered as security for the investment until a suitable opportunity arises for its disposal; 35

(c) to acquire, hold and dispose of any property for the purpose of its business;

(d) to transfer the whole or any part of the life insurance business carried on outside India to any other person or persons, if in the interests of the Corporation it is expedient so to do;

5 (e) to advance or lend money upon the security of any movable or immovable property;

(f) to borrow or raise any money in such manner and upon such security as the Corporation may think fit;

10 (g) to carry on any other business in any case where such other business was being carried on by a subsidiary of an insurer whose controlled business has been transferred to and vested in the Corporation under this Act;

15 (h) to carry on any other business which may seem to the Corporation to be capable of being conveniently carried on in connection with its business and calculated directly or indirectly to render profitable the * * business of the Corporation;

(i) to do all such things as may be incidental or conducive to the proper exercise of any of the powers of the Corporation.

(3) In the discharge of any of its functions the Corporation shall act so far as may be on business principles.

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CHAPTER IV

TRANSFER OF EXISTING LIFE INSURANCE BUSINESS TO THE CORPORATION

7. (1) On the appointed day there shall be transferred to and vested in the Corporation all the assets and liabilities appertaining to the controlled business of all insurers.

Transfer of assets and liabilities of existing insurers carrying on controlled business.

25 (2) The assets appertaining to the controlled business of an insurer shall be deemed to include all rights and powers, and all property, whether movable or immovable, appertaining to his controlled business, including, in particular, cash balances, reserve funds, investments, deposits and all other interests and rights in or arising out
30 of such property as may be in the possession of the insurer and all books of account or documents relating to the controlled business of the insurer; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind then existing and appertaining to the controlled business of the insurer.

35 *Explanation.*—The expression “assets appertaining to the controlled business of an insurer”—

(a) in relation to a composite insurer, includes that part of the paid-up capital of the insurer or assets representing such

part which has or have been allocated to the controlled business of the insurer in accordance with the rules made in this behalf;

(b) in relation to a Government, means the amount lying to the credit of that business on the appointed day.

(3) Where any such assets are subject to any trust referred to in sub-section (6) of section 27 of the Insurance Act or to any other trust for the benefit of policy-holders, the assets shall be deemed to have vested in the Corporation free from any such trust.

Provident,
superannua-
tion and
other like
funds.

8. (1) Where an insurer whose controlled business is to be transferred to and vested in the Corporation under section 7, has established a provident or superannuation fund or any other like fund for the benefit of his employees and constituted a trust in respect thereof (hereinafter in this section referred to as an existing trust), the moneys standing to the credit of any such fund on the appointed day, together with any other assets belonging to such fund, shall, subject to the provisions of sub-section (2), stand transferred to and vest in the Corporation on the appointed day free from any such trust.

(2) Where all the employees of any such insurer do not become employees of the Corporation under section 11, the moneys and other assets belonging to any such fund as is referred to in sub-section (1), shall be apportioned between the trustees of the fund and the Corporation in the prescribed manner; and in case of any dispute regarding such apportionment, the decision of the Central Government thereon shall be final.

(3) The Corporation shall, as soon as may be after the appointed day, constitute in respect of the moneys and other assets which are transferred to and vested in it under this section, one or more trusts having objects as similar to the objects of the existing trusts as in the circumstances may be practicable.

(4) Where all the moneys and other assets belonging to an existing trust are transferred to and vested in the Corporation under this section, the trustees of such trust, shall as from the appointed day, be discharged from the trust, except as respects things done or omitted to be done before the appointed day.

General
effect of
vesting of
controlled
business.

9. (1) Unless otherwise expressly provided by or under this Act, all contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the appointed day and to which an insurer whose controlled business has been transferred to and vested in the Corporation is a party or which are in

favour of such insurer shall in so far as they relate to the controlled business of the insurer be of as full force and effect against or in favour of the Corporation, as the case may be, and may be enforced or acted upon as fully and effectually as if, instead of the insurer, the Corporation had been a party thereto or as if they had been entered into or issued in favour of the Corporation.

(2) If on the appointed day any suit, appeal or other legal proceeding of whatever nature is pending by or against an insurer, then, in so far as it relates to his controlled business, it shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer to the Corporation of the business of the insurer or of anything done under this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Corporation.

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10. (1) For the removal of doubts it is hereby declared that in any case where an insurer whose controlled business has been transferred to and vested in the Corporation under this Act is a composite insurer, the provisions of the preceding sections shall only apply to the extent to which any property appertains to his controlled business and to rights and powers acquired, and to debts, liabilities and obligations incurred, and to contracts, agreements and other instruments made by the insurer for the purposes of his controlled business and to legal proceedings relating to those purposes, and the provisions of those sections shall be construed accordingly.

Provisions as
to composite
insurers.

(2) The Central Government may, by rules made in this behalf, provide—

(a) for the determination of the question whether any property appertains to his controlled business or whether any rights, powers, debts, liabilities or obligations were acquired or incurred or any contract, agreement or other instrument was made by the insurer for the purposes of his controlled business or whether any documents relate to those purposes.

(b) for the allocation of the paid-up capital or assets representing such paid-up capital, as the case may be, between the controlled business of the insurer and any other business;

(c) for substituting for any agreements entered into by any insurer partly for the purposes of his controlled business and partly for other purposes separate agreements in the requisite terms and for any apportionments and indemnities consequent thereon;

(d) for the severance of leases comprising property of which part only is transferred to and vested in the Corporation

by virtue of this Act and for apportionments consequent on such severance;

(e) for the apportionment and the making of financial adjustments with respect to any debts, liabilities or obligations incurred by any such insurer partly for the purposes of his controlled business and partly for other purposes and for any necessary variation of mortgages and encumbrances relating to such debts, liabilities or obligations;

(f) for the apportionment of the moneys and other assets belonging to any provident or superannuation fund or any other like fund to which the provisions of section 8 do not apply between persons employed in connection with the controlled business of an insurer and other persons;

(g) for any other matters supplementary to or consequential on the matters aforesaid for which provision appears to be necessary or expedient.

(3) All rules made under this Section shall be laid for not less than thirty days before both Houses of Parliament as soon as possible after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

(4) Where at any time before the expiration of six months from the appointed day a question has arisen under this section or under any rules made thereunder as to whether any property is or was held or used by the insurer for the purposes of his controlled business, the question shall be referred to the Tribunal for decision.

Transfer of service of existing employees of insurers to the Corporation.

11. (1) Every whole-time employee of an insurer whose controlled business has been transferred to and vested in the Corporation and who was employed by the insurer wholly or mainly in connection with his controlled business immediately before the appointed day shall, on and from the appointed day, become an employee of the Corporation, and shall hold his office therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held the same on the appointed day if this Act had not been passed, and shall continue to do so unless and until his employment in the Corporation is terminated or until his remuneration, terms and conditions are duly altered by the Corporation:

Provided that nothing contained in this sub-section shall apply to any * * * such employee who has, by notice in writing given to the Central Government prior to the appointed day, intimated his

intention of not becoming an employee of the Corporation.

(2) Notwithstanding anything contained in sub-section (1) or in any contract of service, the Central Government may, for the purpose of rationalising the pay scales of employees of insurers whose controlled business has been transferred to and vested in it or for the purpose of reducing the remuneration payable to employees in cases where in the interest of the Corporation and its policy-holders a reduction is called for, alter the terms of service of the employees as to their remuneration in such manner as it thinks fit; and if the alteration is not acceptable to any employee the Corporation may terminate his employment on giving him compensation equivalent to three months' remuneration unless the contract of service with such employee provides for a shorter notice of termination.

Explanation.—The compensation payable to an employee under this sub-section shall be in addition to and shall not affect any pension, gratuity, provident fund money or any other benefit to which the employee may be entitled under his contract of service.

(3) If any question arises as to whether any person was a whole-time employee of an insurer or as to whether any employee was employed wholly or mainly in connection with the controlled business of an insurer immediately before the appointed day the question shall be referred to the Central Government whose decision shall be final.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any employee of an insurer to the Corporation shall not entitle any such employee to any compensation under that Act and no such claim shall be entertained by any court, tribunal or other authority.

12. Subject to such rules as the Central Government may make in this behalf, every whole-time salaried employee of a chief agent of an insurer whose controlled business has been transferred to and vested in the Corporation and,—

(a) who was employed by the chief agent wholly or mainly in connection with the controlled business of the insurer;

(b) whose salary on the appointed day did not exceed five hundred rupees per mensem; and

(c) who was in the employment of the chief agent for a continuous period of not less than three years immediately before the appointed day;

Transfer of services of existing employees of chief agent of insurers to the Corporation in certain cases.

shall, on and from the appointed day, become an employee of the Corporation and the provisions of section 11 shall, so far as may be, apply in relation to such employee as they apply in relation to a whole-time employee of the insurer:

Provided that this section shall not apply except in cases where the chief agent of the insurer was required under the terms of his contract with the insurer to render the prescribed services to policy-holders of the insurer.

Duty to deliver possession of property and documents relating thereto.

13. (1) Where any property appertaining to the controlled business of an insurer has been transferred to and vested in the Corporation under this Act, then,—

(a) every person, in whose possession, custody or control any such property may be, shall deliver the property to the Corporation forthwith;

(b) any person who, on the appointed day, has in his possession, custody or control any books, documents or other papers relating to such controlled business shall be liable to account for the said books, documents and papers to the Corporation, and shall deliver them to the Corporation or to such person as the Corporation may direct.

(2) In particular, all the assets of an insurer appertaining to life insurance business held in deposit by the Reserve Bank of India under the Insurance Act or by trustees in trust shall be delivered to the Corporation.

(3) Without prejudice to the other provisions contained in this section, it shall be lawful for the Corporation to take all necessary steps for securing possession of all properties which have been transferred to and vested in it under this Act.

Power of Corporation to modify contracts of life insurance in certain cases.

14. The Corporation may, having regard to the financial condition on the appointed day of any insurer whose controlled business has been transferred to and vested in the Corporation, reduce the amounts of insurance under contracts of life insurance entered into by such insurer before the 19th day of January, 1956, in such manner and subject to such conditions as it thinks fit:

Provided that no such reduction shall be made except in accordance with a scheme prepared by the Corporation in this behalf and approved by the Central Government.

15. (1) Where an insurer whose controlled business has been transferred to and vested in the Corporation under this Act has, at any time within five years before the 19th day of January, 1956,—

Right of corporation to seek relief in respect of certain transactions of the insurer.

(a) made any payment to any person without consideration;

5 (b) sold or disposed of any property of the insurer without consideration or for an inadequate consideration;

(c) acquired any property or rights for an excessive consideration;

10 (d) entered into or varied any agreement so as to require an excessive consideration to be paid or given by the insurer;

(e) entered into any other transaction of such an onerous nature as to cause a loss to, or impose a liability on, the insurer exceeding any benefit accruing to the insurer;

15 (f) if a composite insurer, transferred any property from his life department to his general department without consideration or for an inadequate consideration;

and the payment, sale, disposal, acquisition, agreement or variation thereof or other transaction or transfer was not reasonably necessary for the purpose of the controlled business of the insurer or was
20 made with an unreasonable lack of prudence on the part of the insurer, regard being had in either case to the circumstances at the time, the Corporation or any other person interested, may apply for relief to the Tribunal in respect of such transaction, and all parties to the transaction shall, unless the Tribunal otherwise directs, be
25 made parties to the application.

(2) The Tribunal may make such order against any of the parties to the application as it thinks just having regard to the extent to which those parties were respectively responsible for the transaction or benefited from it and all the circumstances of the case.

30 (3) Where an application is made to the Tribunal under this section in respect of any transaction and the application is granted wholly or in part***, the Tribunal shall have exclusive jurisdiction to determine any claims outstanding in respect of the transaction.

16. (1) Where the controlled business of an insurer has been transferred to and vested in the Corporation under this Act, compensation shall be given by the Corporation to that insurer in accordance with the principles contained in the First Schedule.

Compensation for acquisition of controlled business.

(2) The amount of the compensation to be given in accordance with the aforesaid principles shall be determined by the Corporation in the first instance, and if the amount so determined is approved by the Central Government it shall be offered to the insurer in full satisfaction of the compensation payable to him under this Act, 5 and if, on the other hand, the amount so offered is not acceptable to the insurer he may within such time as may be prescribed for the purpose have the matter referred to the Tribunal for decision.

Constitution
of
Tribunals.

17. (1) The Central Government may for the purposes of this Act constitute one or more Tribunals and each of the Tribunals shall 10 consist of three members appointed by the Central Government one of whom shall be a person who is, or has been, a Judge of a High Court or has been a Judge of the Supreme Court, and he shall be the Chairman thereof.

(2) A Tribunal may choose one or more persons possessing 15 special knowledge of any matter relating to any case under inquiry to assist the Tribunal in determining any question which has to be decided by it under this Act.

(3) Every Tribunal shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of 20 5 of 1908. the following matters:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits; 25

(d) issuing commissions for the examination of witnesses or documents.

(4) Every Tribunal shall have power to regulate its own procedure and decide all matters within its competence, and may review any of its decisions in the event of there being a mistake on the 30 face of the record or correct any arithmetical or clerical error therein.

CHAPTER V

MANAGEMENT

Offices,
branches
and
agencies

18. (1) The central office of the Corporation shall be at such place 35 as the Central Government may, by notification in the Official Gazette, specify.

(2) The Corporation shall establish a zonal office at each of the following places, namely, Bombay, Calcutta, Delhi, Kanpur and

Madras, and, subject to the previous approval of the Central Government, may establish such other zonal offices as it thinks fit.

(3) The territorial limits of each zone shall be such as may be specified by the Corporation.

5 (4) There may be established as many divisional offices and branches in each zone as the Zonal Manager thinks fit.

19. (1) The Corporation may entrust the general superintendence and direction of its affairs and business to an Executive Committee consisting of not more than five of its members and the Executive
10 Committee may exercise all powers and do all such acts and things as may be delegated to it by the Corporation.

Committees
of the
Corporation.

(2) The Corporation may also constitute an Investment Committee for the purpose of advising it in matters relating to the investment of its funds, and the Investment Committee shall consist of not
15 more than seven members of whom not less than three shall be members of the Corporation and the remaining members shall be persons (whether members of the Corporation or not) who have special knowledge and experience in financial matters, particularly, matters relating to investment of funds.

20 (3) The Corporation may constitute such other Committees as it may think fit for the purpose of discharging such of its functions as may be delegated to them.

20. The Corporation may appoint one or more persons to be the Managing Director or Directors of the Corporation, and every
25 Managing Director shall be a whole-time officer of the Corporation, and shall exercise such powers and perform such duties as may be entrusted or delegated to him by the Executive Committee or the Corporation.

Managing
Directors.

21. In the discharge of its functions under this Act, the Corporation shall be guided by such directions in matters of policy involving public interest as the Central Government may give to it in
30 writing; and if any question arises whether a direction relates to a matter of policy involving public interest the decision of the Central Government thereon shall be final.

Corporation
to be guided
by the
directions
of Central
Government.

35 22. (1) The Corporation may entrust the superintendence and direction of the affairs and business of a zonal office to a person, whether a member or not, who shall be known as the Zonal Manager and the Zonal Manager shall perform all such functions of the Corporation as may be delegated to him with respect to the area
40 within the jurisdiction of the zonal office.

Zonal
Managers.

(2) The Corporation may constitute for each zone a Board consisting of such number of persons as it thinks fit to appoint thereto for the purpose of advising the Zonal Manager in respect of such matters as are referred to it under the regulations made by the Corporation.

5

(3) The Corporation shall constitute in the prescribed manner for each zonal office an Employees and Agents Relations Committee consisting of such number of persons as it thinks fit and every such Committee shall consist of representatives of the Corporation and of its employees and agents, so however, that the number of representatives of the employees and agents on the Committee shall not be less than the number of representatives of the Corporation and it shall be the duty of the Committee to advise the Zonal Manager on matters which relate to the welfare of the employees and agents of the Corporation or which are likely to promote and secure amity and good relations between them and the Corporation.

Staff of the
Corporation.

23. (1) For the purpose of enabling it to discharge its functions under this Act, the Corporation may employ such number of persons as it thinks fit.

(2) Every person employed by the Corporation or whose services have been transferred to the Corporation under this Act, shall be liable to serve anywhere in India.

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

Funds of the
Corporation.

24. The Corporation shall have its own fund and all receipts of the Corporation shall be credited thereto and all payments of the Corporation shall be made therefrom.

Audit.

25. (1) The accounts of the Corporation shall be audited by auditors duly qualified to act as auditors of companies under the law for the time being in force relating to companies, and the auditors shall be appointed by the Corporation with the previous approval of the Central Government and shall receive such remuneration from the Corporation as the Central Government may fix.

(2) Every auditor in the performance of his duties shall have at all reasonable times access to the books, accounts and other documents of the Corporation.

(3) The auditors shall submit their report to the Corporation and shall also forward a copy of their report to the Central Government.

26. The Corporation shall, once at least in every two years, cause an investigation to be made by actuaries into the financial condition of the business of the Corporation, including a valuation of the liabilities of the Corporation, and submit the report of the actuaries to the Central Government.

Actuarial
valuations.

27. The Corporation shall, as soon as may be, after the end of each financial year, prepare and submit to the Central Government in such form as may be prescribed a report giving an account of its activities during the previous financial year, and the report shall also give an account of the activities, if any, which are likely to be undertaken by the Corporation in the next financial year.

Annual re-
port of acti-
vities of Cor-
poration.

28. If as a result of any investigation undertaken by the Corporation under section 26 any surplus emerges, not less than 95 per cent. of such surplus shall be allocated to or reserved for the policy-holders of the Corporation and the remainder may be utilised for such purposes and in such manner as the Central Government may determine.

Surplus how
to be uti-
lised.

29. The Central Government shall cause the report of the auditors under section 25, the report of the actuaries under section 26 and the report giving an account of the activities of the Corporation under section 27 to be laid before both Houses of Parliament as soon as may be after each such report is received by the Central Government.

Reports to be
laid before
Parliament.

CHAPTER VII

MISCELLANEOUS

30. Except to the extent otherwise expressly provided in this Act, on and from the appointed day the Corporation shall have the exclusive privilege of carrying on life insurance business in India; and on and from the said day any certificate of registration under the Insurance Act held by any insurer immediately before the said day shall cease to have effect in so far as it authorises him to carry on life insurance business in India.

Corporation
to have the
exclusive
privilege
of carrying
on life in-
surance
business.

31. (1) Notwithstanding anything contained in section 30 or in the Insurance Act, the Central Government may, by order, permit any person who has made an application in that behalf, to carry on life insurance business in India in respect of the lives of persons ordinarily resident outside India, subject to such restrictions and conditions as may be specified in the order and any such order shall be deemed to have effect as if it were a certificate of registration issued by the Controller to such person under section 3 of the Insurance Act in respect of that class of business.

Exception in
the case of
Insurance
business in
respect of
persons re-
siding out-
side India.

(2) Nothing in sub-section (1) shall authorise any person permitted to carry on life insurance business of the nature referred to in that sub-section, to insure the life of any person ordinarily resident outside India, during any period of his temporary residence in India.

5

Power of Corporation to have official seal in certain cases.

32. The Corporation may have for use in any zonal office, divisional office or in any office outside India an official seal which shall be a facsimile of the common seal of the Corporation, with the addition on its face of the name of the zonal office, divisional office or other office where it is to be used, and any such official seal may be affixed to any deed or document to which the Corporation is a party.

Requirement of foreign laws to be complied with in certain cases.

33. Where any property or rights appertaining to the controlled business of an insurer are transferred to and vested in the Corporation under this Act or would be so transferred and vested but for the fact that such transfer and vesting are governed otherwise than by the law of India, the insurer shall comply with such directions as may be given to him by the Corporation for the purpose of securing that the ownership of the property or, as the case may be, that the right is effectively transferred to the Corporation.

20

Revesting of certain shares vested in the Administrator General.

34. Notwithstanding anything contained in the Insurance Act, all shares which have vested in the Administrator General of any State under sub-section (8) of section 6A of that Act and which have not been disposed of in accordance with the provisions of that sub-section before the appointed day, shall, on payment of the amount of expenditure, if any, incurred by the Administrator General in relation to such shares by the persons who would have been entitled to those shares if the said sub-section had not been enacted, revert in such persons.

25

Repatriation of assets and liabilities in the case of foreign insurers in certain cases.

35. (1) Any insurer incorporated outside India may, before the appointed day, make an application to the Central Government stating that among the assets appertaining to the controlled business of the insurer there are assets brought into India by the insurer for the purpose of building up his life insurance business in India which, notwithstanding anything contained in section 7, should not be transferred to and vested in the Corporation.

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(2) On receipt of an application under sub-section (1), the Central Government shall determine the value of the assets of the insurer appertaining to his controlled business in existence on the 31st day of December, 1955, computed as at that date in accordance with the provisions contained in paragraph 3 of Part B of the First Schedule, and deduct therefrom the total amount of the liabilities of the insurer appertaining to his controlled business in existence on the

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31st day of December, 1955, computed as at that date in accordance with the provisions contained in the Second Schedule; and if there is any excess, the Central Government may, by order, direct that such assets equivalent in value to the excess as may be specified in the order shall not be transferred to or vested in the Corporation, or where the order is made after the appointed day, that the Corporation shall be divested of the said assets.

(3) In the case of any insurer incorporated outside India, the Central Government may also, by order, direct that any such liabilities in respect of life insurance policies expressed in any foreign currency issued on the lives of persons who are not citizens of India as are specified in the order together with any such assets necessary to meet the liabilities, as may be so specified, shall not be transferred to or vested in the Corporation or, if the order is made after the appointed day, that the Corporation shall be divested of such liabilities and assets as aforesaid.

(4) The amount of liabilities in respect of the policies referred to in an order made under sub-section (3) shall be computed as at the 31st day of December, 1955,—

(a) in any case where in respect of the insurer concerned an order has been made under sub-section (2), in accordance with the provisions contained in clause (b) of the Second Schedule; and

(b) in any other case, in accordance with Method A specified in the Second Schedule.

Explanation.—In computing the amount of liabilities in respect of the policies referred to in this sub-section, allowance shall be made for receipts and payments in respect of such policies from the 31st day of December, 1955, upto the date of the order.

(5) Every order made by the Central Government under this section shall be carried out by the Corporation in such manner as the Central Government may direct.

36. Notwithstanding anything contained in the Insurance Act or in any other law for the time being in force, every contract appertaining to controlled business subsisting immediately before the appointed day,—

Contracts of
chief agents
and special
agents to
terminate.

(a) between an insurer and his chief agent or between an insurer and a special agent; or

(b) between the chief agent of an insurer and a special agent;

shall, as from the appointed day, cease to have effect and all rights accruing to the chief agent or the special agent under any such contract shall terminate on that day :

Provided that in every such case compensation shall be given by the Corporation to the chief agent or the special agent, as the

case may be, in accordance with the principles contained in the Third Schedule, and the provisions of sub-section (2) of section 16 shall, so far as may be, apply in every such case.

Policies to be guaranteed by Central Government.

37. The sums assured by all policies issued by the Corporation including any bonuses declared in respect thereof and, subject to the provisions contained in section 14 the amounts assured by all policies issued by any insurer the liabilities under which have vested in the Corporation under this Act, and all bonuses declared in respect thereof, whether before or after the appointed day, shall be guaranteed as to payment in cash by the Central Government.

Liquidation of Corporation.

38. No provision of law relating to the winding up of companies or corporations shall apply to the Corporation established under this Act, and the Corporation shall not be placed in liquidation save by order of the Central Government and in such manner as that Government may direct.

Special provisions for winding up of certain insurers.

39. Where any insurer being a company (other than a composite insurer) whose controlled business has been transferred to and vested in the Corporation under this Act has in accordance with the provisions of this Act collected and distributed any moneys paid to him by the Corporation by way of compensation or otherwise and has also complied with any direction given to him by the Corporation for the purpose of securing that the ownership of any property or any right is effectively transferred to the Corporation, the Central Government may on application being made to it in this behalf by such insurer grant a certificate to the insurer that there is no reason for the continued existence of the insurer and where such a certificate has been granted shall cause the certificate to be published in the Official Gazette and upon the publication thereof the insurer shall be dissolved.

Penalty for withholding property, etc.

40. If any person wilfully withholds or fails to deliver to the Corporation as required by section 13, any property or any books, documents or other papers which may be in his possession or unlawfully retains possession of any property of an insurer which has been transferred to and vested in the Corporation under this Act or wilfully applies any such property to purposes other than those expressed in or authorised by this Act, he shall, on the complaint of the Corporation, be punishable with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Tribunal to have exclusive jurisdiction in certain matters.

41. No civil court shall have jurisdiction to entertain or adjudge upon any matter which a Tribunal is empowered to decide or determine under this Act.

42. Any decision of a Tribunal may be enforced in any civil court within the local limits of whose jurisdiction the person against whom the decision is to be enforced actually and voluntarily resides or carries on business or personally works for gain or owns any property, as if it were a decree passed by that court.

Enforcement
of decisions
of Tribunals.

43. (1) The following sections of the Insurance Act shall, so far as may be, apply to the Corporation as they apply to any other insurer, namely:—

Application
of the
Insurance
Act.

Sections 2, 2B, 3, 18, 26, 33, 38, 39, 41, 45, 46, 47A, 50, 51, 52, 110A, 110B, 110C, 119, 121, 122 and 123.

(2) The Central Government shall as soon as may be after the commencement of this Act, by notification in the Official Gazette direct that the following sections of the Insurance Act shall apply to the Corporation subject to such conditions and modifications as may be specified in the notification, namely:—

Sections 2D, 10, 11, 13, 14, 15, 20, 21, 22, 23, 25, 35, 36, 37, 40, 40A, 43, 44, 102 to 106, 107 to 110, 111, 113, 114 and 116A.

(3) The Central Government may, by notification in the Official Gazette, direct that all or any of the provisions of the Insurance Act other than those specified in sub-section (1) or sub-section (2), shall apply to the Corporation subject to such conditions or modifications as may be specified in the notification.

(4) Every notification issued under sub-section (2) or sub-section (3) shall be laid for not less than thirty days before both Houses of Parliament as soon as possible after it is issued, and shall be subject to such modifications as Parliament may make during the session in which it is so laid or the session immediately following.

(5) Save as provided in this section, nothing contained in the Insurance Act shall apply to the Corporation.

44. Nothing contained in this Act shall apply in relation to—

Act not to
apply in
certain cases.

(a) any insurer whose business is being voluntarily wound up or is being wound up under the orders of the court;

(b) any insurer to whom the Insurance Act does not apply by reason of the provisions contained in section 2E thereof;

(c) any composite insurer in respect of the management of whose affairs an Administrator has been appointed under section 52A of the Insurance Act;

(d) the scheme run by the Central Government known as the Post Office Life Insurance Fund;

(e) any approved superannuation fund as defined in clause (a) of section 58N of the Indian Income Tax Act, 1922, which is in existence on the appointed day;

II of 1922.

(f) any scheme in existence on the appointed day or any scheme framed after the appointed day with the approval of the Central Government whereby, in consideration of certain compulsory deductions made by Government from the salaries of its employees as part of the conditions of service, the payment of money is assured by Government on the death of the employee concerned or on the happening of any contingency dependent on his life.

Special provisions regarding certain composite insurer.

45. Notwithstanding anything contained in clause (c) of section 44, the Administrator appointed to manage the affairs of a composite insurer under the Insurance Act shall, as soon as may be practicable after the commencement of this Act, take steps in the prescribed manner,—

(a) to transfer the assets and liabilities appertaining to the controlled business of the insurer, to the Corporation; and

(b) to vest the management of the affairs of the insurer in respect of any other kind of business, in the person entitled thereto.

Defects in constitution of Corporation or Committees not to invalidate acts or proceedings.

46. No act or proceeding of the Corporation or of any Committee of the Corporation shall be called in question on the ground merely of the existence of any vacancy or defect in the constitution of the Corporation or Committee, as the case may be.

Protection of action taken under Act.

47. No suit, prosecution or other legal proceeding shall lie against any member or employee of the Corporation for anything which is in good faith done or intended to be done under this Act.

Power to make rules.

48. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the term of office and the conditions of service of members;

(b) the manner in which the moneys and other assets belonging to any such fund as is referred to in section 8 shall be apportioned between the trustees of the fund and the Corporation;

5 (c) the services which the chief agent should have rendered for the purpose of the proviso to section 12;

(d) the jurisdiction of the Tribunals constituted under section 17;

10 (e) the manner in which, and the persons to whom, any compensation under this Act may be paid;

(f) the time within which any matter which may be referred to a Tribunal for decision under this Act may be so referred;

(g) the manner in which and the conditions subject to which investments may be made by the Corporation;

15 (h) the manner in which an Employees and Agents Relations Committee may be constituted for each zonal office;

(i) the form in which the report giving an account of the activities of the Corporation shall be prepared;

20 (j) the conditions subject to which the Corporation may appoint employees;

(k) the fees payable under this Act and the manner in which they are to be collected;

(l) any other matter which has to be or may be prescribed.

25 (3) All rules made under this Act shall be laid for not less than thirty days before both Houses of Parliament as soon as possible after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

49. (1) The Corporation may, with the previous approval of the
30 Central Government, by notification in the Gazette of India, make regulations not inconsistent with this Act and the rules made there-
under to provide for all matters for which provision is expedient
for the purpose of giving effect to the provisions of this Act.

Power to
make regu-
lations.

35 (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the powers and functions of the Corporation which may be delegated to the Zonal Managers;

40 (b) the method of recruitment of employees and agents of the Corporation and the terms and conditions of service of such employees or agents;

(c) the number, term of office and conditions of service of members of Boards constituted under section 22;

(d) the territorial limits of each zone established under this Act and the business to be transacted in each zone;

(e) the manner in which the Fund of the Corporation shall be maintained;

(f) the maintenance of separate funds and accounts at each of the zonal offices;

(g) the jurisdiction of each divisional office and the establishment of Councils representative of policy-holders in each area served by a divisional office for the purpose of advising the divisional office in respect of any matter which may be referred to it;

(h) the conduct of business at meetings of the Corporation;

(i) the formation of Committees of the Corporation and the delegation of powers and functions of the Corporation to such Committees, and the conduct of business at meetings of such Committees;

(j) the form and manner in which policies may be issued and contracts binding on the Corporation may be executed;

(k) the classification of policies, whether issued by the Corporation or by any insurer whose controlled business has been transferred to and vested in the Corporation, for the purpose of declaring differential bonuses, wherever necessary;

(l) the manner in which and the intervals within which the accounts of the various zonal offices, divisional offices and branch offices may be inspected and their accounts audited;

(m) the conditions subject to which any payment may be made by the Corporation.

THE FIRST SCHEDULE

(See section 16)

PRINCIPLES FOR DETERMINING COMPENSATION

PART A

5 The compensation to be given by the Corporation to an insurer having a share capital on which dividend or bonus is payable, who has allocated as bonus to policy-holders the whole or any part of the surplus as disclosed in the abstracts prepared in accordance with Part II of the Fourth Schedule to the Insurance Act in respect of
10 the last actuarial investigation relating to his controlled business as at a date earlier than the 1st day of January, 1955, shall be computed in accordance with the provisions contained in paragraph 1 or paragraph 2, whichever is more advantageous to the insurer.

Paragraph 1.—Twenty times the annual average of the share of
15 the surplus allocated to share-holders as disclosed in the abstracts aforesaid in respect of the relevant actuarial investigations multiplied by a figure which represents the proportion that the average business in force during the calendar years 1950 to 1955 bears to the average business in force during the calendar years comprised
20 in the period between the date as at which the actuarial investigation immediately preceding the earliest of the relevant actuarial investigations was made and the date as at which the last of such investigations was made.

Paragraph 2.—Half the amount payable under paragraph 1 plus
25 the paid-up capital or assets equivalent thereto, or, in the case of a composite insurer, that part of the paid-up capital or assets equivalent thereto which has or have been transferred to and vested in the Corporation under this Act less the amount, if any, of expenses or losses or both capitalised by the insurer for the purposes of Form
30 A in the First Schedule to the Insurance Act.

Explanation 1.—For the purposes of paragraph 1,—

(a) “relevant actuarial investigations” means such minimum number of latest actuarial investigations as at date
35 earlier than the 1st day of January, 1955 (not being less than two in any case), as would leave the period intervening between the date as at which the actuarial investigation immediately preceding the first of such investigations was made

and the date as at which the last of such investigations was made, to be not less than four years;

(b) "average business in force" means the average of total sums assured by the insurer (including any bonus) in respect of his controlled business as on the 31st day of December of each of the relevant calendar years. 5

Explanation 2.—For the purposes of paragraph 1, where an insurer has allocated to share-holders more than 5 per cent. of any such surplus as is referred to therein, the insurer shall be deemed to have allocated only 5 per cent. of the surplus and where 10 an insurer has not allocated any such surplus to share-holders or has allocated to share-holders less than $3\frac{1}{2}$ per cent. of any such surplus, the insurer shall be deemed to have allocated $3\frac{1}{2}$ per cent. of the surplus.

Explanation 3.—In the case of any insurer incorporated outside 15 India, the annual average of the share of the surplus allocated to share-holders for the purposes of paragraph 1 shall be deemed to be the annual average of the surplus as disclosed in the abstracts prepared in accordance with Part II of the Fourth Schedule to the Insurance Act in respect of the relevant actuarial investigations 20 multiplied by a figure which is the average of the two figures mentioned below:—

(i) a figure representing the proportion which the share allocated to share-holders out of the surplus in respect of the world business of the insurer (such share being computed 25 subject to the provisions of *Explanation 2*) bears to the whole of such surplus as ascertained with reference to the last actuarial investigation relating to such business as at a date earlier than the 1st day of January, 1955; and

(ii) a figure representing the proportion which the share 30 allocated to share-holders out of the surplus in respect of the world business of the insurer (such share being computed subject to the provisions of *Explanation 2*) bears to the whole of such surplus as ascertained with reference to the actuarial investigation relating to such business immediately preceding the 35 actuarial investigation referred to in clause (i);

Provided that in the case of any such insurer in respect of whom an order has been made under section 35 the amount computed as follows shall be deemed to be the annual average of the surplus:—

(a) there shall be deducted from the annual average of the 40 surplus, interest at $3\frac{1}{2}$ per cent. per annum for one year calcu-

lated on the assets specified in any order made under sub-section (2) of section 35;

5 (b) with respect to the balance arrived at under clause (a), there shall be computed an amount that bears the same proportion to the said balance as the liability on policies appertaining to the controlled business of the insurer, other than those expressed in any foreign currency issued on the lives of persons who are not citizens of India, bears to the liability in respect of all policies appertaining to such business, the liabilities on policies being computed as at the 31st day of December, 1955, in accordance with the provisions contained in clause (b) of the Second Schedule:

Provided further that—

15 (a) in any case where the order made under section 35 is with reference to sub-section (2) only, the preceding proviso shall have effect as if clause (b) had been omitted therefrom; and

20 (b) in any case where the order made under section 35 is with reference to sub-section (3) only, the preceding proviso shall have effect as if—

(i) clause (a) had been omitted;

25 (ii) in clause (b), the words, brackets and letter “with respect to the balance arrived at under clause (a)” had been omitted; for the words “the said balance” the words “annual average of the surplus” had been substituted; and for the words, brackets and letter “with the provisions contained in clause (b) of”, the words and letter “with method A specified in” had been substituted.

30 *Explanation 4.*—Where an insurer is an insurer incorporated outside India whose paid-up capital is outside India—

5 (a) the provisions contained in paragraph 1 shall have effect as if the words “less a sum equal to that part of the paid-up capital of the insurer as may be determined by the Central Government to be allocable to the controlled business of the insurer” were inserted at the end of that paragraph; and

(b) the provisions contained in paragraph 2 shall have effect as if,—

(i) the words “without making the deduction referred to in clause (a) of Explanation 4” had been inserted after

the words "half the amount payable under paragraph 1"; and

(ii) the words beginning with "plus the paid-up capital" and ending with "in the First Schedule to the Insurance Act" had been omitted.

5

PART B

The compensation to be given by the Corporation to an insurer having a share capital on which dividend or bonus is payable who has not made any such allocation as is referred to in Part A in respect of the last actuarial investigation as at a date earlier than the 1st day of January, 1955, shall be an amount equal to the value of the assets of the insurer appertaining to his controlled business in existence, on the 19th day of January, 1956, computed as at that date in accordance with the provisions of paragraph 3 less the amount of liabilities of the insurer appertaining to such business in existence on the 19th day of January, 1956, computed as at that date in accordance with the provisions of paragraph 4.

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Assets.

Paragraph 3.—(a) The market value of any land or buildings.

(b) The market value*** of any shares, securities or other investments held by the insurer.

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(c) The total amount of the premiums paid by the insurer in respect of all leasehold properties reduced in the case of each such premium by an amount which bears to such premium the same proportion as the expired term of the lease in respect of which such premium shall have been paid bears to the total term of the lease.

25

(d) The amount of debts due to the insurer, whether secured or unsecured, to the extent to which they are reasonably considered to be recoverable.

(e) the amount of premiums which have fallen due to the insurer on policies of life insurance but have not been paid and the days of grace for payment of which have not expired.

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(f) The amount of cash held by the insurer whether in deposit with a bank or otherwise.

(g) The value of all tangible assets other than those falling within any of the preceding clauses.

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Liabilities

Paragraph 4.—(a) The total amount of liabilities of the insurer to holders of policies in respect of his controlled business on account of matured claims on which payment has to be made.

(b) The total amount of liabilities of the insurer to holders of policies in respect of his controlled business which have not matured for payment, the liabilities in respect thereof being calculated on the following actuarial bases:—

5 (i) in respect of whole-life assurances and endowment assurances, the mortality table to be used shall be the Oriental (25-35) ultimate mortality table, and an interest rate of $3\frac{1}{4}$ per cent. per annum shall be assumed and for expenses 20 per cent. of office premiums in the case of with-profit policies and 15
10 per cent. of office premiums in the case of non-profit policies shall be reserved;

(ii) in respect of other policies such actuarial bases determined by the actuary making the valuation as may be consistent with the basis specified in clause (i); and

15 (iii) in determining the liabilities of insurers under clause (b) the actuary shall make all the usual provisions and reserves as are ordinarily done in such cases.

(c) The total amount of all other liabilities of the insurer.

(d) Where, as a result of the actuarial valuation of policy
20 liabilities made under clause (b), the life insurance fund is shown to be in surplus, a sum equal to 96 per cent. of such surplus shall be deemed to be a liability under this paragraph.

Explanation.—For the purposes of this Part, in the case of an insurer incorporated outside India in respect of whom an order under
25 section 35 has been made, the assets or the assets and liabilities, as the case may be, specified in the order shall be excluded.

PART C

The compensation to be given by the Corporation to an insurer —

(a) having no share capital; or

30 (b) having a share capital on which a dividend or bonus is not payable;

shall be in the form of an addition at the rate of rupee one per thousand in respect of the sum assured (excluding bonuses) under each with-profit policy, and in the case of an insurer falling under
35 clause (b), such compensation shall also include a sum equivalent to the paid-up capital of the insurer to be paid to him.

THE SECOND SCHEDULE

(See section 35)

PRINCIPLES FOR DETERMINING THE VALUE OF LIABILITIES IN
CERTAIN CASES

The total amount of the liabilities of an insurer incorporated 5
outside India for the purposes of sub-section (2) of section 35 shall
be the sum of the amounts computed in accordance with the
following provisions:—

(a) the total amount of liabilities of the insurer to holders
of policies in respect of his controlled business on account of 10
matured claims on which payment has to be made;

(b) the total amount of liabilities of the insurer to holders
of policies in respect of his controlled business which have not
matured for payment, the liabilities in respect thereof being
the liabilities calculated in accordance with method B below or 15
the mean of the liabilities calculated in accordance with method
A and method B below, whichever is greater.

Method A.—Actuarial liability calculated on the same bases as
adopted by the insurer at the last actuarial investigation as at a
date earlier than the 1st day of January, 1955. 20

Method B.—Actuarial liability calculated on the method known
as the modified net premium method of valuation, the mortality
table to be used being the Oriental (25—35) ultimate mortality table,
an interest rate of 2½ per cent. per annum being assumed and the
allowance for first year expenses being Rs. 40 per thousand rupees 25
of the sum assured by the policy.

Explanation 1.—Before ascertaining the liability under method A
and method B, there shall be added to each with-profit policy in
force on the 31st day of December, 1955, (unless such addition has
already been made) bonus at the same rate as declared at the said 30
last actuarial investigation in respect of each year or part of a
year the policy had been in force since the date as at which the
said last actuarial investigation was made.

Explanation 2.—In calculating the liabilities in accordance with method A or method B,—

- 5 (i) in respect of policies other than whole-life assurance and endowment assurance, such actuarial basis determined by the actuary making the valuation as may be consistent with the basis specified in the method shall be employed; and
- (ii) the actuary shall make all the usual provisions and reserves as are ordinarily done in such cases.
- (c) the total amount of all other liabilities of the insurer.

THE THIRD SCHEDULE

(See section 36)

PRINCIPLES FOR DETERMINING COMPENSATION PAYABLE TO CHIEF AGENTS

The compensation payable to a chief agent shall consist of seventy-five per cent. of the overriding commission specified in the contract relating to chief agency with the insurer on the renewal premiums received by the Corporation during a period of ten years from the appointed day in respect of the business procured by the chief agent before the appointed day; and such compensation shall be determined and paid annually for the said period.

PRINCIPLES FOR DETERMINING COMPENSATION PAYABLE TO SPECIAL AGENTS

The compensation payable to a special agent shall consist of one-eighth of his annual average earnings during the period beginning on the 1st day of January, 1952, and ending on the 31st day of December, 1955, in the form of overriding commissions in respect of business procured by him through insurance agents.

M. N. KAUL,*Secretary.*